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AN ACCOUNT OF  
THE CHAPTER  
ERECTED BY WILLIAM  
JOHN SERGEANT

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The jealousy of the French Church & its spirit  
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D<sup>r</sup> Daniel Ocan. died September 1657  
Lord Henry Howard in a letter to Bruce re  
Sentence given in favour of the appellants 21.  
John Matthews. 28-9.

Kenelm Koburne rector non moramur. 1.  
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The Supreme Court after their decree cessante  
jurisdictione capitulum tunc secularium quod  
litterum 105 also in Prose p. XIII. 13 which words

apostolus named to assistant & Blackwell the 15  
The Chapter was of ancient institution. 105. 119

ACCOUNT  
OF THE  
ENGLISH CHAPTER.

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AN ACCOUNT  
OF  
THE CHAPTER

ERECTED BY WILLIAM,  
TITULAR BISHOP OF CHALCEDON, AND ORDINARY OF  
ENGLAND AND SCOTLAND.

BY  
JOHN SERGEANT,  
CANON AND SECRETARY OF THE CHAPTER.

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*With Preface and Notes,*  
BY  
WILLIAM TURNBULL, ESQ., F.S.A., SCOT.

LONDON :  
JAMES DARLING, 21, LITTLE QUEEN STREET,  
LINCOLN'S-INN FIELDS.

1853. ✓

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## INTRODUCTORY REMARKS.

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HAVING, some time since, accidentally acquired the very rare work comprised in the ensuing pages, I felt that the present position of the Church, and the recent erection of chapters in the respective dioceses, might justify a reprint of what cannot be considered other than a valuable contribution to the ecclesiastical history of England. On carefully perusing it for that purpose, I perceived that, in order to a proper understanding of the subject in all its bearings, it would be necessary for me to add some annotations to the text of the author. After commencing these, I found that a greater amount of investigation was required than I had anticipated; and this, aggravated by a temporary absence both from public libraries, wherein I might have access to the suitable authorities, and from my own private collections, has unavoidably delayed the appearance of a volume which, under other circumstances, would have been published at an earlier period. This delay, however, I do not regret, since it has

enabled me to procure the use of some important materials, not otherwise available.

Unhappily, as in civil matters so in those wherein religion is concerned, polemics will too frequently intrude; and in the latter case they assume what has been appropriately designated the *odium theologicum*. This is somewhat painfully exhibited in the text; but being, as a layman, fortunately exempted from such clerical irritations, and being indifferently affected to regulars and seculars,—respecting each alike,—I have endeavoured, in the notes which I have appended, to steer clear of any expressions that might seem to wear the hue of favour to either side. History demands truth for its basis; and unless the materials employed are facts, the structure is rotten and self-ruinous. I have carefully sought to sift the evidence in this capitular narrative; and where what seems adverse to plain-dealing appears, as we lawyers say, on the record, I have distinctly laid it bare, to the best of my comprehension, yet entirely without bias, and, I trust, without severity. Should my deductions or references prove erroneous, the parties who feel themselves compromised thereby have the remedy in their own power, and are quite able to defend themselves. With this deprecation of intended offence, or desiderated controversy, I may termi-

nate these brief introductory lines with the wish of the most elegant of modern epigrammatists; a sentiment equally applicable to all clerical feuds, whether relating to doctrine or discipline.

Theiologi certant, et adhuc sub judice lis est :

O utinam lis sub judice tota foret !

Theiologi certant, et adhuc de judice lis est :

O utinam lis de judice sola foret !

Tanta vel in nobis utinam lis esset amoris,

Quantus, in hoc lacero tempore, litis amor !

\* \* \* It is my intention, at some future day, when I have more leisure than at present, to reprint, with suitable notes, "The History of Doway College," and similar scarce tractates; all which are necessary to a thorough elucidation of English Church History.

W. T.

3, STONE BUILDINGS, LINCOLN'S INN,

12th March, 1853.



## NOTICE OF THE AUTHOR.

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JOHN SERGEANT (otherwise called Smith, and sometimes Holland) was born at Barrow, in Lincolnshire, in 1621. At the age of sixteen, he was admitted a student of St. John's College, Cambridge, where he took the degree of B.A., and upon the recommendation of Dr. William Best, then master, with approbation of all the seniors, became secretary to Thomas Morton, bishop of Durham, in which capacity he remained about a year. During this employment he had occasion to search into the writings of the early fathers, and the result was his being received into the Catholic Church. Thereafter, in 1642, he went to the English College at Lisbon, and applying himself to the study of divinity, was ordained priest, appointed prefect of the studies there, and finally, in 1652, was sent upon the English mission. Shortly after his arrival, he was elected canon and secretary of the chapter, and devoted the rest of his life to supporting the Catholic cause, which he did with great success for above forty years. Besides engaging in controversy with Hammond, Bramhall, Stillingfleet, and other able theologians of the Church by law established, he was involved in literary contests with some

members of his own communion on philosophical and other matters. But the main feature of his polemical existence was a collision between him and Peter Talbot, the Catholic archbishop of Dublin, who endeavoured to represent as heterodox some of Sergeant's doctrines in regard to the rule of faith; and not only brought his charges against him before the University of Paris, but—finding himself baffled there—carried them to the Sacred Congregation at Rome. Sergeant, however, successfully vindicated himself and his orthodoxy, notwithstanding the prelate's indefatigable, and by no means scrupulous persecution: an instance, not at all solitary, of the annoyances which worthy clergymen have often sustained at the hands of pragmatistical and overbearing prelates. An account of Sergeant and his writings, with a summary of the proceedings at the instance of Archbishop Talbot, will be found in Dodd (*Ch. Hist.* iii. 472, orig. edn.), whence the above particulars are derived.

The original edition is in 16mo., and consists of Address, pp. 8; text, pp. 96.

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# ADDRESS

PREFIXED TO THE FIRST EDITION.

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TO OUR BRETHREN OF THE CHAPTER,—

OUR judicious brother, and late secretary, Mr. John Ward, whose memory ought to be precious to us all, for his care in seeing the rules of our chapter exactly observed, and keeping up order while he lived, did, out of his dutiful regard to his office, with indefatigable industry, compile a large history of all the affairs of our body ever since the alteration of religion, which was transcribed fair, at the cost of the public, to be preserved in our archives. This elaborate work being too prolix to be communicated to many, the most concerning passages in it were reduced to an abstract, or compendium, by an intelligent and hearty capitular, whose disinterested love of the chapter, zeal for the public, and more than common abilities to do both honour and service to our clergy, do give us an early and hopeful promise of his future performances. This information of our brethren being thus far advanced and done to my hand, I reviewed it in the year 1703, and resolved to print some few copies of it, for my dear brethren's satisfaction, being induced to it partly because there

\*  
abstract  
compendium

had been a strange neglect of reading the acts of our former assembly, at the beginning of the general chapter held in 1703 (though the rules enjoin it), which would have given our brethren some light concerning our present condition ; but much more because of the applications made to me by divers of my worthy brethren, complaining how they were *kept in ignorance of such matters as it highly concerned them to know*. The reason why I was so slow in publishing this to our brethren, as I had resolved, was, because our venerable dean was afraid it would displease our present bishops, which I was very loath to do. This made me suspend it hitherto. The motives why I do it now were two. First, I had observed of late a strange carelessness, in some, of preserving the rules and customs of our chapter, and of the decrees of our general assemblies, which I had good reason to fear did proceed from a slight regard of the chapter's authority, farther than out of a vain ambition of getting to be chief officers of it, to gain themselves honour and reputation. Next, because I have been, of late, solicited afresh by the repeated instances of divers brethren, who wanted this justly due information. I reflected how uncomfortable and uncouth it was to walk in the dark ; how it exposed men to err, stumble, or perhaps fall into precipices ; and therefore, that to leave them ignorant of what they ought to know, seemed most unbrotherly, and, in a manner, barbarous. This put me upon examining more strictly what reason there could be for Mr. Dean's



timorousness ; and it occurred to me that it would be so far from disgusting the bishops, that, on the contrary, it would lay a scandal upon their goodness and prudence, to imagine they would be against it, and might tend to create a jealousy between our brethren of the chapter and their lordships, that, whereas they could not but know we had all taken an oath to preserve the rights of the chapter, they would, notwithstanding, be offended our brethren should be informed what those rights are,—nature teaching every one that those guides who will needs keep one hoodwinked and blindfold, have, in all likelihood, a design to lead me out of the way ; and that those who are displeased I should know the right I have to my estate, have a mind to rob me of it. Which misconceit, so disagreeable to the known love and affection they bear for our body, should it take root and sink into the minds of our brethren, would hazard to damp and destroy all the friendly and dutiful correspondence between them and us, and to make them looked upon as men who aim to extirpate utterly all the liberty we have left, and to tyrannize over us. From which unworthy apprehension their kind, sweet, and rather brotherly than fatherly carriage has hitherto secured us.

But that which convinced me absolutely that our standing to our just rights could not possibly be either ungrateful or unwelcome to their lordships is, that it is perfectly agreeable to the sentiments of our common superiors. For, since the supreme court, after their decree (*“ cessabit jurisdictio capitu-*

*lorum, tam secularium quàm regularium, quamdiù vicarii apostolici fuerint in Angliâ*”), did immediately subjoin “*et non aliàs,*” it plainly signifies that our right of jurisdiction still remains, though the exercise of it be suspended, till such a time ; and it is only this right, as to what is unsuspended, which we here maintain,—to do which that decree leaves us at full liberty. Besides, should we neglect to show we have still this true, though at present dormant right, we should consent to destroy all the merit of our submission, for, to give up what we have no right to, does not argue any deference to them at all ; whereas, to divest ourselves of the exercise of a true ordinary or episcopal jurisdiction, which we had so long enjoyed, is so high a strain of meritorious submission, as perhaps is without any parallel since the first foundation of the Christian Church. Nor would it be generous to expect we should ungratefully forget, or disregard what we owe to the care of our two first excellent bishops, William and Richard, and the pains they took to rescue our clergy from the tyranny of our encroaching adversaries, by erecting and confirming our chapter ; which highest benefit we should slight and contemn, if we should neglect to preserve that *depositum* which they, in their wisdoms, judged the most secure asylum and palladium of our clergy against the old attempts of our enemies, which formerly had brought us to the brink of ruin, and threatened to overwhelm us. For that which is dormant, and has lost its power of working, is dead ;

and, in case we should not keep the knowledge of our right awake in the memories of our brethren, it would expose our chapter (though it does not die a sudden death, yet) to dwindle, decay, and at length, by a desuetude of acting, expire, and be buried in oblivion.

Wherefore, let us all reverence, love, and (as far as we have conceded, which is all they require) submit to our present R. R. bishops, and bless God that, since it is our mishap (not through their fault) to have the exercise of our jurisdiction suspended, yet it lights into the hands of those who are hearty and affectionate to our body. Let us perfectly confide in their fatherly care and goodness, that they will, at our request, exert their utmost that we never be oppressed more, nor reduced under the slavish yoke our enemies had prepared for us. Lastly, let us (SALVO JURE CAPITULI) submit peaceably to their superintendency, till it shall please our Supreme Pastor, when he sees the season proper, to better the condition of our poor Church, *by exalting their temporary power into that perpetual one*, of TRUE CANONICAL ORDINARIES.

Your affectionate brother,

And servant in Christ,

J. S.

April 18, 1706.



# TRANSACTIONS

RELATING TO THE

## ENGLISH SECULAR CLERGY.

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### PART I.

*Of the miseries our Clergy sustained till we got a Bishop.*

It may not seem altogether impertinent to the ensuing abstract, if we prefix an historical relation of some fatal attempts and innovations, of most pernicious consequences, carried on by a prevalent party, and supported by all the methods and devices, which either interest, faction, calumny, or misrepresentation could suggest, against the ancient discipline and hierarchy of the secular priests here in England. And, indeed, so powerful were the engines that were set at work to demolish this fabric of Christian government, so unwearied the attempts, indefatigable the pains, and secret the artifice and contrivance, that it appears to me nothing less than the hand of God which could extricate a harmless, unsuspecting people out of these labyrinths, so subtilely contrived, or infatuate the designs of such deep and undermining Achitophels. But here, indeed, was evidently seen, that innocence is the best armour of protection, and the securest defence in time of necessity: for though this secret policy had reduced

the clergy to the last crisis and expiring breath, so that their state seemed somewhat more than desperate, yet Providence still protected them under the shadow of its wings, and made even those dry bones to live and flourish, and once more to become a glorious army for the Lord of Hosts.

But, not to be too tedious in the preliminary, when necessity obliges me to be very concise in the narrative itself, the reader may please to reflect, that, after the advancement of Queen Elizabeth to the Crown, though she departed from the ancient established religion of the kingdom, and showed an extraordinary warmth and zeal for the propagation of the new doctrine, yet, for several years, there was a peaceable, though private enjoyment of our religion : and though I dare not say that liberty of conscience was either allowed or connived at, yet there were no sanguinary laws, or Draconic sanctions, to fright men from their consciences into churches, or compel them to hazard an eternal rest, at the easy expense of a temporal compliance.\* But, about the year 1580, Dr. Watson, bishop of Lincoln, with four more doctors and priests, were committed prisoners to Wisbeach Castle ; and, in some little time after, this number increased and multiplied so fast, that two-and-thirty made up the college of prisoners—wherein they lived in such perfect unity and fraternal kindness, that they became objects of admiration, as well as compassion, to their keepers. They were constant in their meditations, private in their recollections,

\* The first execution for religion under Elizabeth, was that of Cuthbert Maine, in 1577.—Lingard, vi. 331, fifth edition.

had one common stock to share of, and one public refectory to refresh themselves in ; and were so truly of one heart and mind, that, in their daily exercises of disputations, resolutions of cases of conscience, preachings, and exhortations, there was no disturbance, no feuds or animosities, but all calm and serene, all messengers and angels of peace.

But these halcyon days were too soon blown over, and nothing but clouds and darkness surrounded them on a sudden, before they could well discern from what point such hurricanes arose, or how to provide against them ; till, foul weather still increasing, they felt the vessel that carried them split asunder on a rock of dissension, by the perfidious treachery of one of their own new inmates. For, in the year 1587, the same good cause of religion made one Father Weston, provincial of the Jesuits, a prisoner in the same castle ;—whose restless spirit inspired him with ambitious thoughts, even in a prison, and made him begin to cast about, the first week he came in, how he might domineer over his fellow-sufferers. The means he took were as artificial as clandestine,—by cajoling the younger and simple missionaries (and some of them his own penitents) into a good opinion of another sort of discipline among them, and [persuading them] that, if they imagined anything in him worthy the reckoning of, he would employ it totally for their service, and at their command. The true reason of this desired alteration proceeded from his ungovernable temper and haughtiness of mind, which could not brook or dispense with so great an undervaluing, as that any secular priests, though doctors in divinity, and supe-

rior to him both in age and sufferings, should have the precedency, and uppermost room at the table. This galled the very vital part, and was most sensible and afflictive to him, which, by consequence, put his wits to the rack, how to be acquitted of the pain ;— which proved so effectual, that, in a few days, he found the malignity abate, and himself, to his heart's content, chosen, by that factious party he had clandestinely brought over, their superior, though much, as he pretended, against his will ; and had the rules digested and prescribed by Father Garnet's impartial hand.\*

\* Weston, who is here mentioned, was at this time thirty-seven years of age. He had entered the society in 1575, and had been in England about five years. More, who recites the principal incidents of his life (*Hist. Soc. Jesu*, 141—145, 153—155), speaks of him in terms of the highest praise ; but he confirms Sergeant's account of the piety and unanimity of the prisoners at Wisbeach previous to the Jesuit's arrival amongst them, and thereby establishes a presumption in favour of the view by Sergeant. “*Erat frequens precatio, lectio diligens, divinarum literarum in certas horas distributa interpretatio; nihil nisi sanctum in suorum aut heterodoxorum aures oculosve ineurbat.*”—More, *ibid.* 143. The following extract from a memorial, presented by a body of the English Catholics, clergy and laity, to Pope Clement VIII., in 1597, is not without interest. The document is entitled “*Brevis declaratio miserrimi statûs Catholicorum in Angliâ jam degentium,*” and contains no less than eleven articles seriously inculcating the fathers of the society. The seventh runs thus :—

“*Porro monarchiam spiritualement totius Angliæ sibi assumunt, quod patet ex contentione quâdam in carcere Wisbicensi, in quo, propter fidem, detinebantur, et adhuc detinentur, sacerdotes xxxii., mortem quotidie expectantes. Hi, longo tempore, piè et sanctè viventes, comederunt omnes simul, studuerunt omnes simul, assiduâ concionibus, disputationibus assiduâ, casibusque*



This new surreptitious advance added insolence and schism to his ambition; for all those ancient and reverend doctors and missionaries, who protested against these innovations, he treated most uncivilly; then, with his new tribe, broke off their union into separate places of retirement and refreshment; then falsely and maliciously detracted from their reputation by unjust aspersions; and, lastly, laid the guilt of felony to their charge, not scrupling, in the least, to divulge it to his correspondents abroad, who carried it upon the wings of the wind over all the kingdom.\* This fatal misunderstanding amazed

*conscientiæ assiduè, assiduæque Scripturarum expositioni se dabant, nullis non studiis, quibus in gymnasiis uti solent, exercebantur, omnes unanimes, concordés omnes, omnes invicem fraternè erant, unus alteri compatiébatur, ipsa civitas Wisbicensis eos diligebat, tota patria laudabat, hæretici admirabantur, et ipsi carceris custodes eos maximo prosequébantur amore, ita ut major majorque indies daretur libertas, providebatur illis undique, imò à ministris hæreticis unde viverent sæpissime dabatur. Per multos annos in hâc piâ sanctitate et sanctâ devotione religiosè vixerunt, donec Jesuita quidam, nomine Edmundus (Weston,) quo afflatus spiritu nescimus, dabat quibusdam de eleemosynarum insumptione dubitandi occasionem, hocque posito principio, se multorum cordibus ita blanditiis et fabulis insinans, sacerdotes in duas divisit partes, quarum unam sibi [faventem], aliam contrariam habuit."*

The memorial is partly printed in Bagshaw's "True Relation of the Faction begun at Wisbeach," p. 68.

\* Sufficient evidence still remains to show that this statement is not exaggerated. The memorial already cited thus concludes its charges against the fathers:—"Non enim directè quærun't ut deprehendantur sacerdotes, sed indirectè, hoc est, post dispersos rumores, et bonam creptam famam, ita ut, propter hæresis, aut alicujus sceleris suspicionem, tales à nullo Catholico possint excipi, et, per consequens, ad paupertatem reducti, è manibus

and confounded all the Catholics in general, and each party believed and censured, according as their first impressions or affections lay ; and in this confusion the whole kingdom was, till, several delegates being commissioned to investigate the matter,\* the cause of division was found and declared to proceed from Father Weston, and the calumnies [to be] notoriously forged. The major and sounder part stood up for the good old way they were in before, and he [was] commanded to lay down his pretended authority ; for most of his own party at last crying out they would have peace with their brethren, he broke out into this exclamation :—“ Ah, my masters, and will you forsake me thus ? I would never have left you ; but, since it is so, I am content to give it over ;” *et sic corruit inter*

*hæreticorum non possint evadere : et licet carceribus et vinculis detineantur, et variis cruciatibus torqueantur, si non martyrii coronentur gloriâ, nunquam ab illâ purgabuntur suspicione, sed magis magisque indies pro hæreticis reputabuntur.*” Dr. William Gifford, too, then dean of Lisle, and afterwards archbishop of Rheims, writing to two of the English clergy who had opposed themselves to the proceedings of Father Holt, says : “ Sparse-runt nuper (Jesuitæ) Bruxellis, et quidam rediens Duacum publicè dixit, vos esse reos hæreseos, fornicationum, et nefandi sceleris, et fuisse à suâ sanctitate semel conclusum ut damnarenini ad transtra, sed, ob honorem gentis, vobis pepercisse : et licet plurimi horreant tantam calumniam, tamen apud nonnullos fidem obtinet.”—True Relation, 8, 18, 28, 41, 42. To the “calumnies” of Standish, reference will be made presently.

\* First, Dr. Bavant and Mr. Dolman, who failed in their endeavours to reconcile the parties ; and afterwards, Mr. Dudley and Mr. Mush, who were more successful.—True Relation, 21—27, 36—45.

*manus discipulorum*, as though he had been in a swoon.\*

This storm, though with no little trouble and damage, appeased, our venerable brethren began to think of some means to secure them and their posterity from the like or a worse misfortune, by providing themselves with some lawful pastor, who might protect them, and curb any future insolencies; for it seemed an unheard and unparalleled attempt, that those very auxiliaries, which but very lately had been invited in, and were the last workmen of all that were called into the vineyard, should convert their forces against their benefactors, and, instead of endeavouring to re-establish the primitive doctrine in its ancient purity, should affect a domineering power, not only over the flock, but the very pastors of Christ, who had hitherto borne the heat and burthen of the day. That haughty answer which Father Garnet gave to some of the seculars who consulted and advised with him concerning this novel design, cleared all difficulties, and let them see what it was that they aimed at, viz., that *he saw no reason why the Jesuits might not govern, and have the pre-eminence over, all the secular priests in England, as well as they had at Rome over the English seminary*; and, comparing this with what Father Weston and his adherents had formerly, in public letters, demanded against those who refused to submit to his new government,—viz., *that no Catholic*

\* For a more detailed account of Weston's proceedings in Wisbeach Castle, see "True Relation," 1—45.

*should send them any relief, or countenance them, that thereby, through want, they might be compelled to yield to the regiment imposed upon them by Father Garnet, —they could not but see themselves in dangerous circumstances, and therefore all imaginable endeavours were to be used to shatter this threatening tempest from falling on them.\** Wherefore they all unanimously agreed to draw up a humble sup-

\* See "True Relation," 39, 40, and Berington's *Memoirs of Panzani*, 41. Dodd alludes to a report, which corresponds exactly with our author's account, that Garnet was acting in concert with Weston for the purpose of "bringing the clergy into subjection to the Jesuits," and of obtaining "the management of the collections that were made, all over England, for the support of the prisoners. Thus far," he concludes, "it had its effect, that Father Weston, having had several sums of money paid into his hands, took care that only such should partake of the distributions as conformed to the new discipline."—*Hist.* vol. iii. p. 41, ed. Tierney. This is confirmed by what is known to have existed even after the appointment of the archpriest:—"Jesuitæ tandem et archipresbyter (Blackwell) eleemosynas, quæ per universum gregem, in incarcerationum sustentationem et alios pios usus, a fidelibus erogantur, in suas prius manus deportandas curant quàm in egenos distribuuntur: eæ autem ad carceres mittuntur cum mandato, ut illi sacerdotes, qui ab iis non stant, earum non fiant participes."—*Relatio compendiosa turbarum quas Jesuitæ Angli concivere, &c.* p. 99. The memorial above referred to thus describes the objects and conduct of the fathers:—"Cupientes qui in Angliâ sunt Jesuitæ aut clerum ecclesiæ Anglicanæ sibi subjugare, aut omninò deprimere, hoc miro molimine tentare sunt ausi. Primo, volunt, ut nulla sit Catholicorum domus (ecclesiarum enim hujusmodi loco sunt domicilia) in quâ non sint vel ipsi tanquam pastores, vel alii ab his deputati, qui suas vices gerant: et si qui forte vel facultates denegarent ab eis delegatas, vel parochiam ab eis dependentem non agnoverint, vel ea quæ mandârint ad nutum non exequantur, hi aut apostatæ, aut hæretici, aut saltem aliquâ hæresis labe infecti

plication to his holiness, and offer their reasons for having a bishop granted to them, as he had yielded heretofore to their brethren in Ireland. In these consultations none was more active or zealous than one Mr. Standish, a priest, till he had discovered that there were several more able persons in all respects than himself pitched upon for so great an employment, and so weighty a trust and preferment; whereupon he shifted his sails, and, going over to the Jesuits, acquainted them with the whole procedure of his brethren's intentions. It was not long before this notice was despatched to Father Persons, in Spain; and he, with the same expedition, hastens to Rome, in order to obviate and obstruct any such advantageous assistance which thereby might accrue to the clergy.\*

censebuntur.....Non sufficit clerum pie et sancte vivere, nisi etiam Jesuitas sibi superiores agnoscant," &c. &c.

\* "True Relation," 50, 51. It has been asserted, that Persons was anxious for the establishment of episcopal authority; and a letter written by him to Father Alphonsus Aggazarius on the subject, as well as a memorial presented by him to the pope, has often been referred to in support of the assertion.—More, 146; Plowden's Remarks on Panzani, 122, note. Now, admitting the correctness of the inference thus deduced from these documents, it will still be certain, at least, that he subsequently altered his opinion, and that, if he at one time zealously advocated, he afterwards as violently opposed, the appointment in question. One motive for this change is shown by Dr. Lingard to have been a hope, which he entertained, of rendering the government of an archpriest instrumental in introducing a Catholic sovereign on the death of Elizabeth (vi. 640, 5th edition); but this could scarcely have been the sole inducement to an alteration of his sentiments. He had originally, so it is said, proposed the institution of *two* bishops; and though it might now have become

But, in the interim, it was thought most proper to approve of and applaud such a design, and to keep the clergy amused with their own conceits, so

expedient to the political views of the Jesuits to “subject all the secular priests to the government of a *single* superior, attached to their party (*ibid.*), yet it will be difficult to show why that single superior might not have been invested with the episcopal character, unless we allow the existence of those ulterior designs on the independence of the clergy, so constantly asserted in the writings and publications of the time. “*Jesuitæ sibi ipsis comparare superioritatem per suffragia diffidentes, et episcopalem dignitatem, ut suæ conceptæ existimationis ac splendoris obfuscationem, aversantes, ad dominium comparandum alienæ personæ larvâ utendum putant. Quamobrem aliquis ex nostris sacerdotibus, per omnia Jesuitis obsequentissimus, sedulâ patris Personii operâ, ad gradum infimæ alicujus prelaturæ erat promovendus: per hunc enim et se avertere à jugo episcoporum, et faciliè dominari in toto clero posse sperabant.*”—*Declaratio Motuum*, p. 30; a work written under the immediate inspection of Dr. Bishop, and addressed, in the name of the clergy, to Pope Clement VIII.

The fact, however, is, that Persons *never* contemplated the establishment of a regular episcopal jurisdiction. He wished to introduce the power, but not the authority, of a bishop. He was anxious to secure the advantages to be derived from episcopal ministration, without subjecting himself or his brethren to episcopal control; and thus, at the very moment when he was describing the necessities of religion, and urging the appointment of two superiors qualified to discharge the peculiar functions of bishops, he was devising means to fetter the authority of those superiors, and render them, save only in name and character, the model of that very archpriest whom he afterwards inflicted on the English church. A copy of the memorial presented by him to the Pope, and containing what have been called his “nine reasons” for the establishment of bishops in England, will be found in the Appendix to this work. Unless the reader has already become acquainted with the publication of this document in Mr. Tierney’s valuable edition of Dodd’s History

that they might not suspect any underhand proceeding against them, and in the mean while to endeavour to gain over to their party some of the seculars, who might write to the court of Rome, and assure it that there had never been any dissension between the secular priests and the Jesuits, [and] that the reports made against those good fathers concerning their ambition were so far from truth, that the Jesuits were in all places most notable examples to the secular priests of singular humility, gentleness, patience, piety, charity, &c. ; and they despatched this testimonial by another clergyman to meet Father Persons at Rome.\* This contrivance failed

(vol. iii. p. cxvii.), he will perhaps be surprised to discover that, of the two prelates who were to be charged with the government of the Catholics, one was to reside in Belgium, the other in England ; that they were to exercise a concurrent, and perhaps co-ordinate, jurisdiction over the whole country ; and that, *like the archpriest*, they were each to be provided with *a certain number of clerical assistants, chosen partly by themselves and partly by the Roman court*, and commissioned, not only to direct the bishops, by their counsel, in the execution of their various duties, but also to exercise a portion of the episcopal jurisdiction in the provincial districts of the kingdom !

\* For the means by which signatures were obtained to this testimonial, see "True Relation," 53, 54. The proceedings adopted on another occasion will further illustrate this subject. In November, 1596, a similar document, in behalf of Father Holt and the English members of the society, was drawn up and circulated among the exiles in Belgium ; and Dr. Worthington, who, to use his own words, had "bound himself by express vow to be directed, commanded, and governed" by Persons (Letter to Persons, Jan. 10, 1597, Dodd, vol. v. App. p. iv. ed. Tierney), was employed "to travel up and down, from place to place, to get every man's hand, who would not be counted a miso-Jesuit, to subscribe to it. We all here," continues Dr. Yonger, him-

not of its desired end. Mr. Blackwell was the man that penned that perfidious letter, and Mr. Standish the bearer that carried it to Father Persons at Rome, in the year 1597;\* and by these two false

self one of the subscribing parties, “gladly would have shunned to intermeddle in this matter, wherein we know nothing what just accusation may be laid against Father Holt and others in England, whose dealings are altogether unknown to the most here; yet we are importuned, yea, and violently persuaded, by one who will not easily relent from his own preconceived opinion. .... We must all, forsooth, needs subscribe to a letter drawn in testimony of the fathers’ innocency, against whom, in truth, we know nothing, and thus much we would willingly testify; but this is not reckoned sufficient; we must also say, that we disallow, and disprove, and count slanderous all that the other parties object against the Jesuits. To this we oppose that, in conscience, we cannot, seeing we know not the causes by which the others are moved to write to the pope. We offer to write to the president (Dr. Barrett) a blank, wherein he may testify, in all our names, that which in conscience he thinketh may be said. This is not yet enough; but we must write to Father Alphonso, in case the president be absent, and Father Alphonso must have our names, to use when necessity shall require. If this be refused, then general speeches are used, that we are ‘*Scottilini generis*,’ unde sequitur nos non favere Jesuitis, ergo nec causæ Catholicæ,” &c. To the same effect, Dr. W. Gifford, after mentioning the refusal which Worthington’s application had received from himself and several of the clergy, says, that many were at length induced to lend their signatures to the instrument by the arts employed to circumvent them: “Quosdam enim promissis inescârunt, alios minis terruerunt, nonnullos deceperunt.” Amongst the signatures, 118 in number, the name of Guy Fawkes occurs.

\* Besides this public document, Blackwell was busily employed in writing and despatching a succession of private letters to Rome, all of a similar nature. In one, dated September 14, 1597, and signed by himself, Thomas Bramston, and four others, after entreating



brethren the whole clergy was reduced to its last extremity, and groaned under insupportable evils ; for Father Persons, having gained that interest as

Cardinal Cajetan, to whom it is addressed, to adopt some means for securing the future submission and obedience of all persons destined to the English mission, he says : “ *Hoc si fiet, et omnia dissidia, uti speramus, perpetuò cessabunt, et nostri, ubicumque fuerint, optimis illis patribus qui præsunt illis, quique de illis et omnibus Anglis optimè meriti sunt, diligentius in posterum obtinere abutunt.*” In another, addressed to the same person, on the 10th of the following December, and signed by himself only, he says : “ *Vidimus maximo cum dolore nostro maximum mendaciorum et calumniarum cumulum congestum esse in humillimos, qui apud nos vivunt, et integerrimos, et pacatissimos patres Societatis Jesu ;*” and he concludes a lengthened panegyric by imploring the cardinal, *for his sake*, to continue to think well of the society : “ *Hoc igitur humillime petimus ob amplitudine vestrâ, ut, quia hæret in animo vestro de nostris commodis assidua cogitatio, hoc unum præter cætera præcipue curetis, ne quod in suâ existimatione damnum faciant reverendi patres societatis.*”

Of Standish's conduct on this occasion, it may be sufficient to observe that, with a view to exalt the fathers of the society at the expense of the secular clergy, he employed himself, whilst at Rome, in charging the latter, upon oath, with practices equally obscene and improbable. Take, as a specimen, one of the least objectionable passages, premising only that similar and even worse charges are made, amongst others, against Charnock (whose name, as the deputy of the clergy, will presently be mentioned in conjunction with that of Dr. Bishop), and the venerable and venerated confessor John Colleton, afterwards one of the assistants to the archpriest, and ultimately dean of the English chapter : “ *De Mutio (John Mush, one of the agents for the clergy at Rome, and subsequently assistant to the archpriest) mihi retulit nobilis quædam fœmina Catholica, et cognatione mihi conjuncta, vehementerque quæsta est, se vidisse hunc Mutium in amplexibus et osculis cum filiâ suâ super lectum, unde valde timebat mater filiæ suæ periculum ; eumque non haberet ad*

to be promoted to the rectorship of the English college there, obtained an audience of his holiness for this Standish, Dr. Haddock, and Martin Array, two other runagate priests, as the deputies of the secular priests in England, most humbly entreating his holiness that he would be pleased to appoint a superior over the Church of England, because there was so great a dissension between the secular priests and the laity, that great inconveniences would necessarily follow, unless one was placed over them, who, by his authority, might reform and reconcile them. His holiness, startled at this, demanded of them, in express terms, if what they had said to him proceeded from the desire and consent of his loving priests in England? otherwise he would in no sort give ear to their relation. Whereunto Mr. Standish (unheard-of perfidiousness!), instructed before by Father Persons, replied, that what he had presumed to deliver to his holiness was done by the most assured and unanimous consent of his brethren. His holiness, thus grossly abused, committed the matter to Cardinal Cajetan, protector of the English seminary, and Cardinal Borghesius, with whom Father Persons had so particular a familiarity, that he was commissioned to contrive it as he thought most convenient. He easily determined that *one* must govern all the priests in England; yet, not daring to nominate a Jesuit for that purpose (for this would have appeared too palpable a design, and absurdity), who must be the man but Mr. Blackwell?

quem confugeret remedii causâ, conquesta est apud *patres in castro Wisbicensi detentos*, qui tamen, pro auctoritate, aut ex imperio, nihil facere poterant."

who thereupon is named archpriest of England. Assistants are appointed to wait upon him; a letter, with the cardinal's consent, is composed by Father Persons; rules are made, and one, in effect, that *the archpriest and his assistants shall determine nothing, in any matter of importance, without the Jesuits' consent.* All things thus despatched, Mr. Standish is remitted with this stuff into England, and Mr. Blackwell receives and publisheth the same, requiring all priests to subscribe to it.\*

This strange, unexpected surprise caused most of the ancient missionaries to examine more strictly into the depth of the mystery; and, finding that the cardinal's directions were not warranted by any brief from the pope; that Mr. Blackwell had been taken in a manifest forgery, of pretending some of his own to be the cardinal's constitutions, which he openly confessed; that Mr. Standish, being examined how he durst presume to abuse his holiness with so impudent and intolerable an untruth, replied, that, when he said he had the consent of the secular priests in England to make that motion, his answer therein was made by him *cautè*, that is, *subtily*, or *by equivocation*, meaning, to himself, "*as he supposed, or presumed,*" which words he kept in his mind, and uttered not;†—these considerations convinced them

\* This account is taken from Bagshaw, 55—58; its confirmation will be found in Dodd, iii. 41, App. cxx. exlix. ed. Tierney; and ii. 380, orig. ed. The number of Blackwell's assistants was to be twelve, whereof six were named in Cardinal Cajetan's letter, and the remainder were to be selected by Blackwell himself.—Dodd, iii cxxi. ed. Tierney. *The same a. 11.*

† "Dominus Standishus, ad hoc negotium promovendum

that the whole was only a contrivance of Father Persons, and that the cardinal, as well as the pope, had been imposed upon by false suggestions: and therefore [they] desired that they might not be urged to subscribe to the said authority, till [either] they had seen the pope's bull to ratify it, or more time [had been] allowed, to know his holiness's pleasure therein: for they could never be induced to believe that either the pope or the cardinal would impose such hard conditions on the clergy, as [to require them] to submit themselves to the dominion of the new order of the Jesuits. Mr. Blackwell and Father Garnet, perceiving their intent, despatched their emissaries over all the kingdom, to gather the subscriptions of our poor ignorant brethren, who had never heard of this matter before; and, partly by threats, partly by fair promises, compelled them to put their hands to a letter of thanks to the pope and cardinal, for that excellent form of government they had appointed over them.\* This despatch was

subornatus,.....coram sanctissimo domino affirmavit omnium se consensum habuisse sacerdotum, quem sanè nec habuit, nec postulavit;.....et interrogatus postea quâ fronte illud faceret, respondit se ex præsumptione illud fecisse."—*Relatio Compendiosa*, p. 23; see also *True Relation*, 56.

\* See *Memoirs of Panzani*, 55; *True Relation*, 59; and *Relatio Compendiosa*, 26. The last says, "Breve apostolicum in auctoritate confirmatum, est *per subtili et fraudulentâ subscriptionum collectione*."—*Ibid.* Plowden, however, in his remarks on Panzani (p. 126), denies the accuracy of this statement; and to prove, first, that Blackwell and Garnet were not concerned in procuring the letter of thanks; secondly, that it was signed, not by "the young and ignorant," but by "the great bulk of the clergy," refers to two letters which he has printed in his *Appendix*, No. 3. But it is to

accelerated with all imaginable diligence, and fresh directions [were] given to the messengers, to assure the court of Rome that the opposition which was made against the [new] subordination in England, did proceed only from a few factious spirits, and that it would be very dishonourable to his holiness's former proceedings if they should find any favour or countenance there.\* These Machiavellian practices gaining on the good opinion of that court, we may well imagine that the clergy's agents (two learned and pious priests), Mr. Bishop and Mr. Charnock, had but

be observed, that of these letters the first is *Garnet's own*, written, probably, to Persons, and enclosing a copy of a congratulatory address, said to have been presented by certain clergymen to Blackwell on his appointment. In it the writer says that the address is signed by "almost all the priests at Wisbeach" (a quibusdam, inò ferè omnibus presbyteris Wisbicensibus), and declares that "the society is intimately connected with the archpriest" (societas nostra universa illi intimè conjuncta est). The second letter is the copy enclosed in the preceding. It is dated September 30, 1598, and is signed by *nineteen* persons, amongst whom are Weston and Pond, two Jesuits; Dryland, superior of the prisoners at Wisbeach *under Weston*, and afterwards a member of the society (Dodd, ii. 141, orig. edit.); Southworth and Bramston, who, with Blackwell, are joint subscribers of the letter referred to in note, p. 12; and Green, who, after a warm eulogium in favour of the Jesuits, once not only demanded the excommunication of all who opposed them, but solicited the pope for powers to pronounce and execute the sentence himself:—"Si autem ita visum fuerit tuæ prudentiæ, et expedire videtur ut hoc modo et ordine contra istos rebelles procedatur, *ad me transmittatur mandatum apostolicum*," &c. Of the others scarce anything is known.

\* This statement is taken from Bagshaw, "True Relation," 59: its truth is proved by Cardinal Cajetan's letter to Blackwell, inserted in Dodd, iii. 125, ed. Tierney.

small success in supplicating the pope for a better information ;\*—meeting [in fact] with no better entertainment than a browbeating denial of audience, a close confinement in prison, very hard usage therein, [and] no release thence, but upon the sacred promise of an oath to depart separately thence, without leave or valediction one of another,—one through Lorraine, the other through Holland,—and by no means to set foot in England again, till they had leave from Rome. Neither was the persecution less vehement on the whole body in the realm than on their representatives abroad : for all that would not subscribe were treated as rebels and apostates, as men fallen from the Church, and the spouse of Christ, &c. ; [they were represented] to have incurred the sentence of excommunication, to be as publicans and sinners, and

\* That is, in requesting the pope to *inquire further and obtain better information*. For an account of the mission and treatment of Bishop and Charnock, see Dodd, iii. 49, cxxvii. ed. Tierney ; *Declaratio Motuum*, 41—44 ; *Relatio Compend.* 75 ; *Memoirs of Panzani*, 55—57 ; and *Butler's Memoirs of Eng. Cath.* ii. 257—260. The last writer, after stating that on their liberation from confinement they were forbidden, under pain of suspension, to return to England, Ireland, or Scotland, endeavours to account for their subsequent appearance in England, by suggesting the probability of an interference in their behalf on the part of Cardinal du Perron, the French ambassador, then resident at the Roman court. The fact, however, is, that the prohibition in question was issued by the cardinals Cajetan and Borghese ; that, on his arrival in Lorraine, Charnock addressed an appeal to Pope Clement against the sentence of the cardinals ; and that, having by this appeal removed the cause out of the jurisdiction of the latter, he and his colleague returned to England, and the subject, most probably, was not afterwards revived. See Dr. Ely's "Certain Brief Notes" on *Persons' Apology*, 157, 158.

nothing better than soothsayers and idolaters; and, proportionably (*conformably*) hereunto, the new patriarch fulminates out his indignation in these words, — “*Propterea, in Dei nomine, Amen. Nos, Georgius Blackwellus, archipresbyter Angliæ, et protonotarius apostolicus, ex autoritate nobis sufficienter et legitimè commissâ, præcipimus strictè, in virtute obedientiæ, et sub pænâ suspensionis à divinis, et amissionis omnium facultatum ipso facto incurrendarum, omnibus ecclesiasticis personis (omnibus autèm laicis Catholicis sub pænâ interdicti, similiter ipso facto incurrendi), ut,*” &c.—which extravagant sentence was designed against all those that should, either directly or indirectly, maintain or defend the censure of the faculty of Sorbonne, in behalf of our clergy.\* For, finding themselves accused as schismatics, in not subscribing the cardinal’s constitutions, without the warrant of the pope’s brief for the tenor of its confirmation, and introducing a new kind of government, never heard of before in God’s church, viz., that an archpriest should have charge over a whole kingdom, and jurisdiction over every priest in the realm, who yet were willing to submit to his holiness’s will in all things, they proposed their case to the Sorbonne thus:—†

“The archpriest, and those who are on his side,

\* A copy of Blackwell’s decree, partly in English and partly in Latin, is printed in the *True Relation*, 81—83; the substance of it, without either the preamble or the concluding paragraph, may be found in Dodd, iii. 131, ed. Tierney. Dorrel’s masterly reply to it is worth perusing. It is in the *True Relation*, 83 *et seq.*

† The meaning of the writer is, that finding themselves, though willing to submit implicitly to the commands of his

accuse other priests of schism, in that they deferred to obey the cardinal's letters, which, moreover, he said, were written according to his holiness's mind and pleasure. The question, then, is, whether these priests be schismatics?—and if not, whether they did commit, at the least, some grievous sin?

“Resolved, first, That those priests who, upon the above-named causes, deferred to obey, were no schismatics; secondly, That they committed no sin at all, in that fact, in itself considered.

“By commandment of our dean and masters, deputed and selected by the whole faculty of divinity in Paris.

(Signed)

“DELACOURT.

“May 3, Anno Dom. 1600.”

At last, indeed, the pope's brief was obtained and promulgated; and the clergy, with all submission and willingness, obeyed it, as dutiful sons of their supreme pastor, how dear soever it cost them.\*

holiness, yet accused as schismatics, because they denied the validity of the cardinal's letter, unsupported as it was by any brief from the pope, and introducing as it did a new form of ecclesiastical government, in the person of an archpriest having jurisdiction over the clergy and laity of a whole kingdom, they proposed their case, &c. The case, with the sentence pronounced on it by the Sorbonne, is in Dodd, iii. 130, ed. Tierney; a translation of it is in the *True Relation*, 79—81.

\* The brief is in Dodd, iii. cxxviii. ed. Tierney, and is dated April 6, 1599. Hence it appears that the opinion of the Paris divines was subsequent to the publication of the brief, and that Blackwell, who suspended or interdicted all who defended the sentence pronounced by that learned body, continued to brand his former opponents as schismatics, even after they had submitted to his anomalous government. This, in fact, is acknowledged by Pope Clement himself in another brief, dated August 17,



It is hard to conceive the indignities which, on one side, the clergy patiently endured, and the insolencies which, without number or measure, were offered from the other party, during this anarchical government of Mr. Blackwell and his twelve associates, who, if not all Jesuits, yet were absolute dependants and favourites of them, acting and determining nothing but with and by their authority and approbation, to the great diminution of the

1601, wherein, referring to the former instrument, he says, “*Quæ nostræ literæ simul atque promulgatæ ad vestram, filii presbyteri, devenerunt notitiam, omnem illicò sedatam fuisse discordiam, et summam pacem (reconciliatâ inter vos gratiâ, depositisque odiis et simultatibus) initam fuisse, magno nostro cum gaudio cognovimus. At vero, quia nunnulorum animis adhuc adhærebat offensio quædam, quòd illi, qui primò tibi, fili archipresbyter, obtemperare recusaverant, à quibusdam schismatici censerentur....., tu, iisdem causis adductus, constitutæ autoritatis detractores videri tibi schismaticos fuisse respondisti (quod dolentes referimus); et ideò consilium judiciumque tuum fuisse, ut ipsi priùs satisfactionem facerent, quàm absolutionis beneficium acciperent.*” In a subsequent part of the same letter he thus confirms the opinion of the Paris divines: “*Ut verò totius discordiæ fomes è medio tollatur....., nomen schismatis, hæc de causâ, inter vos penitus extinguimus et abolimus; et ne ullam ampliùs illius mentionem faciatis, vobis, sub iisdem pœnis (excommunicationis) interdiciamus et prohibemus.*” —Dodd, iii. cl. cli. ed. Tierney. It is to this decision that Lord Henry Howard, afterwards earl of Northampton, in a letter addressed to Bruce, one of the agents of King James, thus refers: “Sentence is given at Rome, on the side of the seminaries (seminary priests), that they were neither *schismatici* nor *inobedientes*, in forbearing to submit till they saw warrant by pontifical authority; and all their acts, till the coming out of the brief, have been justified, as they term it, *ore apostolico*, which hath put all our Jesuits and their friends into a fever.”—Secret Correspondence, 72.

portion of Christ, and the absolute establishment of their own interest: insomuch that his holiness, at length, understanding what indirect measures were taken here, in the jurisdiction over the clergy, gave his positive commands that no Jesuit should know, or be consulted in, what peculiarly belonged to the clergy's affairs.\* And, that you may be the better informed what irreparable damages they did then to the whole concern and interest of the secular priests, and on what a sure foundation they established themselves and their party, for a perpetuity, I shall abstract some few articles, exhibited against them and their proceedings, by some English gentlemen, to Pope Clement VIII. [in] 1597.

“First. That, in every Catholic house (which are instead of the church), either they themselves be the pastors, or others deputed by them in their room; and if any deny to submit to this, then they are censured, either as apostates or heretics, or tainted with the infection of some heresy.

“Secondly. That no dispensation is available but what is granted by them; and, which is worse, they have persuaded most people that the mass is not rightly said, or orderly celebrated, by any but a Jesuit.

“Thirdly. When any clergyman granteth a dispensation in any case, there is a doubt made, first of his power and authority, next of his life and conversation.

“Fourthly. That unless a secular priest will ac-

\* See Dodd, iii. cxxxi. cxxviii. ed. Tierney; *Memoirs of Panzani*, 60—64; and *Butler's Mem. of Eng. Cath.* ii. 261—265.

knowledge the Jesuits for his superiors, he shall either be tormented, disgraced, or persecuted.

“ Fifthly. They give out that they have power from his holiness to grant to all and every one, all and singular their faculties, insomuch that it shall not be lawful and safe for any one to make use of his privileges, though granted to him many years before from his holiness, but with the leave and consent of these fathers of the society; and the faculties bestowed by them are not conferred upon learned and deserving men, but upon illiterate, irregular, and seditious persons, such as follow *their* humour, stoop at *their* beck, and stand obliged ever after to them.

“ Sixthly. That the collection of alms, heretofore made by the secular priests, and the contributions in cases of dispensations, whereby colleges were supplied, banished Catholics relieved, and prisoners succoured, are now taken into *their* hands; but none of the pious works [to which it was heretofore dedicated, are now] performed by that great mass of money collected, nor can any one tell what is become of it.”\*

\* In the first of these articles the reader will recognise an abridged translation of a passage cited in note, page 8. The charges, in fact, here enumerated, are all selected from the memorial already frequently referred to, and are abundantly confirmed by the evidence of other contemporary documents. To show that the memorialists were not disposed to exaggerate their grievances, the ninth clause is subjoined: “*Ita deinde delectantur æquivoco sermone, ut, ad aliorum scandalum, publicis literis [eum] defendere non vereantur. Judicibus legebantur literæ ejusdam Jesuitæ, Sudevelli (Southwell) nomine, omnibus in foro audientibus, in quibus defendebantur æquivocationes absurdissimæ, quæ risum hæreticis, at Catholicis scan-*

Under this insupportable yoke did the clergy groan [during] most of this archpriest's usurpation and tyranny, till Providence found out the means to ease them of *him* first, and shortly after of the burthen too, which was brought to pass after this manner:—Mr. Blackwell allowed of, and permitted the taking, the oath of allegiance, contrary to the sentiments of the Jesuits; whereupon they represented him, after the usual manner, at Rome, as they had formerly done to others,\* and thereupon

dala, præbebant. Ita illis cordi est rumores spargere, et novitates nescio quas auribus Catholicorum suggerere, imò quotidie fingere, ut vulgò nunc à plurimis mendacissimi habeantur: eò etiam deventum est, ut jurantibus illis fides non adhibeatur." Now, though Father Persons at the time denied the truth of the charge here levelled against Southwell, yet More, the historian and the panegyrist of the society, offers his approving testimony to the fact, that Southwell not only defended a simple equivocation, as stated above, but, in his defence upon his trial, asserted the lawfulness of confirming a falsehood by an oath, if the object were to frustrate the pursuit of an enemy or a persecutor. (Hist. Soc. Jesu, 196, 197.) This was a doctrine not unworthy of that man who, having been convicted of swearing to an untruth, first contended that his falsehood was a "lawful equivocation," and then declared that it might "be, without perjury, confirmed by oath.....though it were by receiving the sacrament."—See Lingard, vii. 81. On the charge of alienating the funds of the clergy, mentioned in the sixth clause, see the complaint of Cardinal Allen, recorded in the memorial presented by the archpriest Harrison and his assistants to Pope Paul V., in 1619 (Dodd, v. cccxvi. ed. Tierney); the "information" of Archdeacon Colleton and the other assistants (*ibid.* iii. 146, orig. edn.); and the brief of Pope Clement VIII., in which he feels it necessary to admonish Blackwell to be faithful in the distribution of the collections: "Monemus ut eleemosynas.....*fidèlitér* distribuas."—*Ibid.* iii. clxxxii. ed. Tierney.

\* That is, *as they had formerly represented others.*

he was removed from his archpresbytery, and another was substituted in his room, who, not so exactly fitting their humour as was expected, he was cashiered, too, of his authority; and so a third;\* till the pope, awakened by such audacious proceedings, and justly suspecting some sinister and fraudulent designs, admitted thereupon the agents of the clergy to an audience; with tears of compassion pitied their circumstances; and, out of a paternal care, gave them a true father for their superior,—that is, a bishop with ordinary jurisdiction,—and accepted of that very person nominated by them for this prelatie authority, who had suffered so much cruelty before in prison and banishment, viz. Mr. Bishop, whom he raised up as it were from the dunghill of affliction, to seat him amongst the princes of his people, to be the ordinary of England, and titular of Chalcedon. And thus we are arrived at the catastrophe of this dismal tra-

\* If the author means here that Birket and Harrison, the two successors of Blackwell, were deposed, he is in error; for they are both known to have died in possession of their dignity,—the former in 1614, and the latter in 1621.—Dodd, ii. 377, orig. edn.; Mem. Panz. 91. It is however true that, though the “audacious proceedings” of the fathers did not succeed in actually “cashiering” these dignitaries, they were not ineffectual in impairing and impeding their “authority.” They were the constant subject of Birket’s private expostulations with Persons; they were the theme of the spirited remonstrance which Harrison and his assistants transmitted to Rome, in 1619; and there can be little doubt that they were, at length, the means of awakening the papal court to the necessities of the English church, and introducing that form of episcopal government which was soon after established.—See Dodd, ii. 377, orig. edn.; v. lxxxix. ccxxvii. ed. Tierney.

gedy, wishing that we may from this example learn to be wise, and secure ourselves from falling into the like misfortunes. Neither, indeed, can we hope for or deserve the compassion of any, if we should be so far neglectful of our duty as not to be zealous to defend that authority which was granted for our preservation, and must be our sole defence.

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## PART II.

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*That the Power, Authority, and Jurisdiction of our two Bishops was truly ordinary.*

THE next thing, that follows of course, is to prove that this authority in our first bishop, William, and Richard who succeeded him, was truly ordinary, and that they (the bishops) were validly and authentically constituted such; which I shall here demonstrate from no less testimony than public records, concessions, acknowledgments, and prescription.

In the year, therefore, 1621, Mr. John Bennet, one of the archpriest's assistants, was despatched with letters patent to Rome (as before him another had been sent on the same errand), to supplicate for a bishop with ordinary jurisdiction. In his first audience with Pope Gregory XV., in a very elegant speech, which is yet preserved amongst the records of the chapter, he endeavoured to persuade his holiness to a favourable condescension; and afterwards presented a memorial to him, and to the cardinals, with these most solid arguments and weighty considerations:—First, from the institution of Christ; secondly, from the practice of the apostles and the perpetual custom of the Church; thirdly, from the authority and decrees of councils and popes; fourthly, from the nature of episcopal functions; fifthly, from the absolute necessity of restoring

and preserving the ecclesiastical hierarchy and discipline in England; and sixthly, from the modern examples of our neighbouring nations; concluding, in a nervous peroration to the cardinals of the holy office, for an episcopal ordinary jurisdiction, instead of the late new and unheard-of extraordinary jurisdiction of archpriests. After this, he presented divers other memorials to his holiness and the aforesaid cardinals, to the same effect; and, October 24, [1622,] he writes to the clergy in England, that, although the decree for granting a bishop to them be the same which is granted to all other nations where there is any number of Catholics, yet, unwilling to give his majesty any cause of offence, his holiness intends to give them only one bishop to supply the place of the archpriest; that his title shall be taken out of Greece or Asia, and not out of England, so as by no means to provoke the incumbents there, or prejudice any right his majesty hath to the nomination of English bishops; that his jurisdiction shall be the usual which is received, known, and approved in all provinces, and that which every private bishop exerciseth in his diocese, &c.\*

\* On the subject of Bennet's mission, and the arguments employed to deter Gregory from complying with the desires of the clergy, see Lingard, vii. note f, p. 552, 5th edit. The number of bishops originally intended for the English Catholics was four; but Toby Matthews,<sup>a</sup> a concealed Jesuit, was employed to alarm

<sup>a</sup> Owen was pleased to play thus on his name:—

“TOBIAS MATHÆUS.

Ex veteri primum sortire, novoque secundum,

Ex Testamento nomen utroque trahis.

Hoc mirum est: nomen Gentile Canonicum esse,

Hoc in fonte Fides quod dedit, Apocryphum.”



But, after all, finding some demurs concerning the principal part of our supplication for episcopal ordinary jurisdiction, in the November following he presented the cardinals with a more sensible and close memorial, in this tenor :—

“Illustrissimi et Reverendissimi Domini,—Post diuturnam tredecim mensium deliberationem, placuit SSmo. D. N. clero Anglicano episcopum præficiendum esse decernere; cumque res omnis ad exitum perducta videretur, in novam revocatur consultationem, num tali episcopo ordinaria jurisdictio fuerit tribuenda. Sanè, totius nostræ petitionis ea erat summa, ut delegata archipresbyteri potestas in ordinariam et episcopalem mutaretur, quod ex rationibus a nobis exhibitis fit manifestum. Ex duobus namque capitibus, episcopos nobis petentibus jure divino deberi, probatum censemus,—primum ex muniis quæ sunt ordinis, sacramentis nimirum episcopalibus, &c., secundum ab ordinariæ jurisdic-

the jealousies of the government. James, through the agency of the Spanish ambassador, announced his determined hostility to the proposed arrangement, and Gregory, to extricate himself from the difficulty, endeavoured to compromise the matter by the appointment of only one episcopal superior. Toby Matthews's object, which was not unperceived by the king, is well described by the lord-keeper Williams, in a postscript to one of his letters to the duke of Buckingham :—“The Spanish ambassador,” says he, “took the alarm very speedily of the titular Romish bishop, and before my departure from his house at Islington, whither I went privately to him, did write both to Rome and Spain, to prevent it. But I am afraid that Tobie will prove but an apocryphal, and no canonical, intelligencer; acquainting the state with this project, *for the Jesuites', rather than for Jesus' sake.*” The letter is dated August 23, 1622.—Cabala, 291, 292; Dodd, Hist., vol. v. p. 90, ed. Tierney.

tionis necessitate, &c. Fusè etiam calamitosis documentis ostendimus, non solum archipresbyteri delegatam apud nos potestatem, sed *quamvis aliam novam et non receptam jurisdictionem*, non inutilem nobis solùm, sed, his præsertim temporibus, exitialem, &c. Verùm, modò objicitur, hâc jurisdictione Jesuitas peti, unde turbæ et tumultus sint orituri : Respondeo [primò], nemini obscurum est Jesuitas vires et artes suas clàm et palàm ad hoc negotium oppugnandum contulisse, idque non aliâ ratione, nisi quòd ordinariam jurisdictionem, omnis disciplinæ normam, aversantur, &c. : secundò, humillimè supplicamus ut perpendatur, æquumne sit ut episcopi ex ecclesiæ provinciis tollantur, ex eo quòd Jesuitæ contra eos ubique, vel alicubi, tumultuentur, &c. : tertiò, consideretur num, ad morem gerendum pauculis Jesuitis ordinariam jurisdictionem in episcopis contra omne jus et fas, adeoque Christi institutum, aversantibus, æquum sit immenso clero, et infinito populo, ac demùm duobus amplissimis regnis, omnem ordinariam potestatem, licèt divino jure aliàs debitam, ut horum libidini obsequatur, denegare. Objicitur secundò, ordinariam jurisdictionem episcopis extra diœcesium suarum limites committi non posse, sed eam, quæcumque fuerit, fore delegatam. Respondeo, hoc penitùs esse falsum : primò, quia antiquior est ordinaria jurisdictio quam diœcesium divisio et limites, &c. : secundò, ex institutione Pauli quinti, illustrissimus nuncius apostolicus in Galliâ factus est ordinarius Angliæ et Scotiæ," &c.

In the same month, authentic informations were delivered in to the said cardinals in behalf of

Dr. Kellison, Dr. Bishop, and Dr. Smith, *nominated by the clergy* for bishops; and the February following [1623], Dr. William Bishop was declared elect bishop of Chalcedon, though not destined by any brief for England, nor determined as yet what power he should have or exercise there; but on the 15th of March following, the bull for his creation was despatched, and that, too, as ample and as full as is now usually given to any bishop in Christendom, excepting what is peculiar to titular bishops, in dispensing with their residence. The substance of which was this:—

\* “*Hoc etiam tibi, ut addictam ecclesiam, quamdiù ab ipsis infidelibus detinebitur, adire, et apud illam personaliter residere, minimè tenearis, autoritate apostolicâ prædictâ, earundem tenore præsentium, de speciali gratiâ indulgemus,*” &c.: in which, first, he granted a dispensation for his residence at Chalcedon; secondly, he conferred upon him an indulgence of being consecrated by *any* Catholic bishop, the right of which, *jure communi*, belonged to the patriarch of Constantinople, as metropolitan; and thirdly, [he allowed him] the privilege of a secret despatch, without the accustomed solemnities.

After this, upon the twenty-third of March, was despatched the brief for his destination and commission for England, for the exercise of that ordinary and episcopal jurisdiction there, which otherwise he was to have exercised at Chalcedon, as is manifestly imported in the brief, by the tenor of the terms it is expressed in, directly answering to the supplication

\* The bull is printed at length in Dodd, iv. cclxx. *et seq.* ed. Tierney.

made by our agent, in his last memorial to the pope. The substantial form is this:—

\* “Tibi ut, postquàm munus consecrationis susceperis, et ad eadem regna te contuleris, ad solatium animarum, et spirituale bonum Christi fidelium Catholicorum in regnis Angliæ et Scotiæ prædictis existentium, sive quos pro tempore ibi existere contigerit, ad nostrum et sedis apostolicæ beneplacitum, omnibus et singulis facultatibus, olim archipresbyteris, Angliæ à sede apostolicâ deputatis, per felicis recordationis Clementem octavum, et Paulum quintum, pontifices Romanos, prædecessores nostros, concessis, necnon quibus ordinarii in suis civitatibus et diocesisibus utuntur, fruuntur, et gaudent, ac uti, frui, et gaudere possunt, similiter uti, frui, et gaudere liberè et licitè possis et valeas, apostolicâ autoritate, tenore præsentium, licentiam et facultatem imperitumur; ~~te~~teque ad præsentia omnia et singula, autoritate et tenore prædictis, delegamus.”\*

\* If Dodd be correct, the words “teque ad præsentia,” or, as he prints them, “*præmissa, omnia,*” &c., with the whole of the clause contained in the following paragraph, are taken, not from the brief addressed to Dr. Bishop, but from that issued on the appointment of his successor, Dr. Smith. The mistake, however, —if it be one,—which might easily occur, is of no consequence to the argument. In every other respect the two instruments are precisely the same: the words here inserted add nothing to the previous grant of “all and singular those faculties which ordinaries possess;” and the nature of Dr. Bishop’s jurisdiction, therefore, is no more affected by the introduction, than that of his successor would have been by the omission of the clause. At the same time it should be observed, that the fact of our author’s being in error depends entirely on the presumed accuracy of Dodd’s copy of the brief to Dr. Bishop; that Dodd himself, in the first instance, confounds it with another document, and that

And that this ordinary and episcopal jurisdiction was real, and every way complete, the exception, immediately after subjoined, gives us an ample confirmation, viz.—“Causarum tamen in secundâ instantiâ cognitionem, et terminationem, omnemque à quocumque gravamine recursum, nostro apud charissimum filium Ludovicum, Francorum regem Christianissimum, nunc et pro tempore existenti, nuncio reservamus, et reservata esse volumus.”

There was also a papal decree, directed to the said William, elect bishop of Chalcedon, after this tenor: — “N., &c. Dilecto nobis in Christo, N., electo Anglorum episcopo, salutem et apostolicam benedictionem, &c. . . . . Atque, ut omnium, tam ecclesiasticorum quam laicorum, in Angliâ degentium tranquillitati, regimini, et saluti, atque etiam episcopi prædicti levamini, meliùs consulatur, concedimus et declaramus per præsentés, quòd liceat episcopo prædicto virum aliquem discretum, et ad hujusmodi munus obeundum habilem et idoneum, eligere, et per literas suas patentes nominare, et constituere, qui auctoritate et jurisdictione vicarii episcopi generalis fulciatur, quique personas omnes, tam ecclesiasticas quam laicas, infra Angliam degentes, secundum canones et ecclesiasticas Angliæ consuetudines olim ibidem receptas et approbatas, regat et gubernat, &c. . . . . Nolumus, tamen, per hoc, prædicto episcopo in juribus, privi-

he afterwards prints it, contrary to his usual practice, without referring to the source whence he has obtained it. It remains, therefore, to inquire whether he used the original, or a copy; —and, if the latter, what proof remains of its accuracy?—See Dodd, iv. cclxxi. cclxxii. ed. Tierney; and iii. 6, 7, orig. edit.

legiis, aut prærogativis suis episcopalibus in aliquo quomodolibet derogari, quin possit prædictus episcopus quos et quotquot voluerit archidiaconos, sive etiam archipresbyteros, per diversa infra Angliam loca, prout ipsi videbitur meliùs expedire, nominare, et constituere," &c.\*

I have been somewhat large in the transcription of these decrees and briefs, as well as [of] the memorials presented by our agents, that the impartial reader might, from the very tenor of our supplications, and the form of the instruments themselves, be more amply convinced of the nature of that authority and jurisdiction we petitioned for, and in the granting of which his holiness was pleased to condescend to our so just requests. Yet since there are, at present, and ever have been, some

\* This is the document which Dodd confounds with the brief mentioned in the preceding note, and of which another passage is inserted in page 39, *post*. It has been said that no such decree was ever issued; but upon what authority this assertion has been hazarded it were perhaps difficult to determine. Certainly, Dodd's acknowledgment that the powers conferred by the decree are not mentioned in the brief, can never show that the former had no existence; while the fact of his having printed, as a continuous portion of the instrument, passages which, in the present work, occur as detached citations, demonstratively proves, when coupled with his acknowledged honesty, that he, as well as our author, had seen the disputed document. See his Hist., *ibid*. With regard to the other circumstances connected with the decree, it would appear from the terms in which both the bishop and his jurisdiction are mentioned, to have been issued *after* the brief. It was probably intended to serve as a commentary on some parts of the latter, and in particular, perhaps, to explain the nature and extent of the "*beneplacitum*." See our author, page 37, *post*.

turbulent spirits, that love to despise and speak ill of government, are of so subtile and speculative sort of temper as *nodum in scirpo quærere*, have been very active and busy in undervaluing and diminishing the authority here mentioned, and would fain have it looked upon, not as truly episcopal and ordinary, but merely extraordinary and vicarious, I shall therefore insert a few observations, to confound such an audacious calumny.

And, first, from the very form of words his commission is conceived in, viz., “*Episcopo, et electo Anglorum episcopo,*” and not so much as one single word which has the least resemblance of the name or nature of “*vicarius apostolicus.*”<sup>\*</sup> Wherefore, if words are to be accepted and interpreted according to their natural and primary signification, the word “*bishop,*” by the unanimous acceptation, signifying only one endowed with an ordinary jurisdiction, must have the same meaning here,—there being nothing to restrain it to any other sense, and, on the other side, several reasons for the preserving it in its usual and natural acceptation; viz., the public memorials for an ordinary, and protestations against an extraordinary or vicarious jurisdiction. Therefore, he must of necessity have been an ordinary.

Secondly, from those words in the decree, viz., that he was “*omnes personas infra Angliam degentes regere et gubernare, secundum canones et ecclesias*—

<sup>\*</sup> Here the author seems to err. Each of the instruments published by Dodd—and they are the only ones that contain the commission of the two prelates—is addressed, not “*Episcopo Anglorum,*” but “*Electo Chalcedonensi.*”—iv. cclxxi. cclxxiii. ed. Tierney.

ticas Angliæ consuetudines olim ibidem receptas.” Now an extraordinary or vicarious authority, as such, is not only *non secundum canones*, but, indeed, *præter omnes canones*. Next, the ecclesiastical laws and canons of our nation were conformable to the municipal laws of the realm, the bishops having a peculiar prerogative in the enacting of them ; and therefore, since the ancient Catholic laws absolutely forbid any such extraordinary authority, under the severest penalties, an ordinary jurisdiction only can be supposed to be according to the ancient customs of England ; and therefore, by the positive words of the papal decree, only an ordinary jurisdiction was commissioned for England.

Thirdly, Pope Paul V. decreed, “quòd R. D. D. Nuncius apostolicus, pro tempore in Galliâ, Parisiis, degens, sit ordinarius Anglorum et Scotorum, cum omni potestate quam habent ordinarii in eorum diœcesibus,” &c. : and the bull of consecration reserving only to that nuncio “cognitionem causarum in secundâ instantiâ,” all the exercise and title of ordinary jurisdiction from that very moment ceased in the nuncio,\* and was transferred to our bishop, who, in the decree, is an express ordinary.

Fourthly. In the brief are inserted these words : “Omnibus et singulis facultatibus quibus ordinarii in suis civitatibus, &c., similiter uti, et frui, et gaudere possis liberè et licitè.” Now, one of these is, that ordinaries are supposed essentially to enjoy

\* If, therefore, it was revocable in him, it may have been equally so in his successor. In other words, a prelate may have been styled an ordinary, and invested with ordinary jurisdiction, without being irrevocable or independent.



an ordinary jurisdiction ; and therefore [our bishop] must have the same allowed him, although this his power was conferred upon him by way of delegation ; for there is an immense difference between the *modus*, and the *potestas delegata*. The first was necessarily to be submitted to, for fear of exciting the government and laws against us ; and therefore prudence and discretion so prevailed, that the manner of introduction should be from the nomination to another see, not to give any umbrage to the then incumbents, or distaste to the government, by designing any Catholic bishop to their titles or sees ; but, for the *potestas ipsa*, it was ordinary, and truly episcopal, according to the memorials exhibited for such, and no other.

But to this is objected this clause,—“*ad nostrum et sedis apostolicæ beneplacitum*,”—and therefore, [it is said,] by consequence, [the power] could not be ordinary, which is irrevocable, but extraordinary, which is *ad libitum*.

Answer : I doubt not but some, not without some ground, would reply, that the reader is not supposed to be altogether unacquainted with the method of the court of Rome, especially when any favours are to be expected from it. How careful it is to make use of some expression or other, whereby to make all things depend upon her authority, which, although it may not be very useful at the present, yet afterwards may turn to some account to her ; and though, indeed, I am absolutely convinced that that expression does not in the least derogate from the authority of that bishop's ordinary jurisdiction, yet, possibly, it may be intended as a leading card to

future pretensions, to curb the bishops, if they should behave themselves undutifully. Yet I do not here need any such weak plea. But to answer more directly, we are to suppose that the brief of his consecration does not contain a sense implicative and destructive to itself, for this would quite deprive him even of any authority or consecration at all; it would be *ipso facto* null, and therefore it must be explicated in a sense that is compatible with the nature and essence of the thing there designed, which, I will be positive, can never be, if taken in the sense some are pleased to take those words. For, since it was expressly said in the brief and decree that he was to have “*commissum sibi gregem*,” and *that* over all persons in general and particular, [and] that he was to enjoy the same privileges and prerogatives as any other ordinary did,\* this is to suppose and constitute him essentially an ordinary and immovable; and, consequently, to think that he was nevertheless *ad beneplacitum*, or moveable, as some would fain understand it, is to make the form contradictory to itself, and *ipso facto* null, and [to say] that he was made nothing at all by it. Therefore, to reconcile it to itself, we must look for the natural meaning of the phrase inserted in that place, only observing, first, that there are no such words as “*ad beneplacitum revocandum*,” or “*cassandum*,” and herein natural reason supplies us with these obvious explications following. [Before we proceed, however, it

\* This is not correct. He was invested with all the *powers*—“*omnibus et singulis facultatibus, quibus ordinarii*,” &c.; but it does not therefore follow that he was to enjoy all the *privileges* of an ordinary.

is necessary to] note, that the authority of the supreme pastor being of such a large extent, and intended by our Saviour to be of a perpetual duration, the sovereign wisdom of the Roman court does, in penning her decrees, so cautiously scan the words as to provide against all future emergencies, how remote soever ; though those, whose narrow thoughts reach no farther, not being aware of it, are hence apt to restrain and apply them to the present circumstances, and conceit they have no other nor farther prospect than what is, *hic et nunc*, under hand. This premised, I answer—

Secondly, that that phrase was inserted to evince that his residence at Chalcedon was no longer dispensed with, than that see should remain in the power of infidels, it being his holiness's "beneplacitum" to dispense with it, so long and no longer ;—and this the words in the bull of his consecration, before cited, give a strong presumption to be the intention of it. But—

Thirdly, if we would place this citation with other parts of the said brief in a parallel line, one to the other, we could not but see how one does naturally explicate the other ; and therefore, since the papal decree is the best expositor of his holiness's bull, I shall transcribe some clauses in the first, which, without any ambiguity, will decide this controverted point in the last. Let us prefix, then, the objection, "ad nostrum et sedis apostolicæ beneplacitum," [and] let us subjoin to it this passage in the papal decree :—"Quòd si, per Dei gratiam ac infinitam misericordiam, aliquando fides Catholica in Angliâ revixerit, adeò ut in sedibus omnibus

episcopalibus et archiepiscopalibus, quæ ibidem olim erectæ, confirmatæ, et stabilitæ sunt, viri Catholici et idonei ordinari et constitui potuerint, volumus et declaramus, quòd potestas omnis et jurisdictio, prædicto episcopo concessa, ex tunc cesset omninò, et fiat irrita, nullamque habeat prædictus episcopus in Angliam, sive personas aliquas ibidem degentes, auctoritatem aut jurisdictionem, donec ad sedem aliquam episcopalem, sive archiepiscopalem, ibidem canonicè fuerit electus et translatus," &c. Wherefore, beyond all dispute or possibility of a rational reply, the whole meaning is this,—that his ample and *universal* ordinary jurisdiction, extending over all the kingdom, should be no longer valid, or such, after it should have pleased Almighty God to restore that kingdom to the unity of the Church and ecclesiastical discipline; and [that] therefore, for that very end, the pope, or see apostolic, should declare that this aforesaid power should be annulled and revoked at their own pleasure. And that this must be the sense, I have these two material considerations to confirm me in the opinion.

The first is, that, in conformity to this, Bishop Smith, in his letters patent for the confirmation of the chapter erected by his predecessor, saith, "Quòd prædictum capitulum, cum decano, durare volumus, donec, pluribus in Angliâ episcopis Catholicis constitutis, plura capitula in eodem regno erigantur, et non ampliùs,"—which adds so much vigour and strength to the former explication, as no impartial man can require more.

The second is, that both the bishops absolutely denied themselves to be "vicarii apostolici,"—that

is, extraordinary,—but on all occasions styled themselves, in their public and private instruments and patents, “ordinarii Angliæ et Scotiæ.”\* Now, I would appeal to any unprejudiced mind, what can seem more natural or rational than this? or what can be more arbitrary, exorbitant, or shocking to Christian ears, than to suppose that those two or three words, crowded into the brief, must necessarily have so great an influence as to invalidate the institution of Christ concerning bishops, and transfer their perpetual and unalterable spiritual marriage to the spouse of Christ to a voluntary dependence and abrogation at pleasure? If “from the beginning it was not so,” certainly no new dispensation can authorize a valid bill of divorce between them; and as they were joined together *jure divino*, by an unalterable decree of heaven, so I can never be induced to believe that any human power or policy can ever pretend, by their “beneplacitum,” either to infringe or annul the contract; and therefore it ought to be concluded that both this bishop and his successor were truly and essentially ordinaries. Besides what has been already said, I have these supernumerary and unquestionable authorities, viz., the acknowledgments of all sorts of people,—nay, of Rome itself,—to confound this contrary pretence, and put it to an eternal silence.

\* He forgets, however, that the nuncio at Paris officially admonished Dr. Smith to drop this title, and that a solemn decree of the Propaganda declared that the Holy See had never intended to create him ordinary of England.—Dodd, iv. cclxxxv. ed. Tierney; iii. 18, orig. ed. The argument which follows in the text is, to say nothing of its inaccuracies, too metaphorical and too forced to be of much service to the author.

And for the more clear eviction of this, as well as to make it more evident and perspicuous to the reader, I shall carry on the citations by an historical series, according to the times at which they happened; which method, as it is most easy and savours of plain dealing, so it brings along with it the force of an unanswerable argument, and will make any unbiassed considerer cry out, “Magna est veritas, et prævalet nimis.”

And first, Cardinal Bandinus, March 23, 1623, while nuncio at Paris,\* writes to Bishop William a congratulatory letter, the superscription whereof was, “Reverendissimo Gulielmo, electo episcopo Chalcedonensi, *Angliæ et Scotiæ ordinario* ;” and in the letter itself he tells him that he was “sui officii, pontificio etiam nomine, commonefacere illum;” that “grex erat sibi commissus, et Catholicus populus suæ curæ traditus,” &c.† All these titles, I presume, from a cardinal and nuncio,—and

\* There is a double mistake here. The letter in question was written by Cardinal Bandinus, not from Paris, but from Rome, and is dated *April 5*, 1623. It is transcribed at length in Ward’s defence of the chapter, from which the present work is abridged.

† Dodd (iii. 12, orig. edn.) refers to this same letter, but omits the superscription. The argument, however, founded on this and the following letters amounts to nothing. The title was one of courtesy, or it might even have been attributed under a supposition that he who possessed the power, had been invested also with the style and title of ordinary. But this will show no more than the private opinions or feelings of the individual writers, or of the persons in whose behalf they drew up the addresses. The letters of Father Rudisend and the others will be found in Dodd, iv. cclxxv.—cclxxvii. ed. Tierney.

that, too, with express orders from his holiness to write to him,—are evident convictions of his ordinary jurisdiction; and the same is no less confirmed by the instructions sent him, with this title: “*Instructiones et monita, ad quorum normam Reverendissimus Episcopus Chalcedonensis, Angliæ et Scotiæ ordinarius, commissum sibi regimen SSmi. Domini expresso mandato componere præcipitur.*”

Secondly. The superiors of the regulars allowed and used the same title to him. Father Rudisend, president of the English congregation of Benedictines, the 15th June, 1623 (the day of the bishop's consecration), writes thus: \* “*Reverendissime in Christo pater et domine, quandoquidem Ward ity. præpotenti Deo jam placuit reverendissimæ dominationis vestræ personam eligere, ut gentis nostræ ordinarius sit episcopus,*” &c. Father Leander, prior of the English Benedictines, 1623, thus superscribes a congratulatory letter to him:—“*Reverendissimo in Christo patri, Domino Gulielmo, episcopo Chalcedonensi, ordinario Angliæ, &c., domino ac patrono meo optimo,*” &c. Father Joseph de Sancto Martino, provincial of the province of Canterbury, in his own name, and in the name of Father Bede, provincial of the province of York, writes to the bishop thus:—“*Reverendissimo in Christo patri ac domino, Gulielmo, episcopo Chalcedonensi, ordinario Angliæ, Octobris 26, 1623.*” About that time, certain articles of agreement and concord were drawn up between the bishop, as ordinary, and the superiors of the Benedictines, and signed thus:—“*Gulielmus, episcopus Chalcedonensis, ordinarius Angliæ; Pater Leander à Sancto Martino, prior monasterii*” +

Duacenorum nomine; Pater Rudisendus Barlow, præses generalis."

Let us subjoin to these testimonial acknowledgments the argument of a very learned man then living, to prove it so in reality: ~~✱~~ "Quòd episcopus Chalcedonensis sit verus Catholicorum in Angliâ ordinarius probatur, tum quia est axioma jurisconsultorum, desumptum ex jure canonico et civili, quòd delegatus à principe ad universitatem causarum est ordinarius; at episcopus Chalcedonensis est hujusmodi, ut patet ex brevi (*'teque ad præmissa omnia et singula delegamus'*), et alibi (quòd daret illi *tantum episcopalis auctoritatis 'quantum cum Domino potest'*); deinde tribuit illi omnes et singulas facultates, quas ordinarii possunt habere in suis diœcesibus; ac demùm constituit eum judicem in primâ instantiâ, quod ordinariorum est, ut patet ex Conc. Trid. sess. 24, cap. 20; sed hæc omnia includunt universalitatem causarum; ergo, ordinarius est episcopus Chalcedonensis. Deinde, nequit esse delegatus, quia talis nil habet proprii, sed ejus qui mandavit jurisdictione utitur: in toto autem brevi, nullum est indicium quòd pontifex ei mandat usum *sue* jurisdictionis; nam licèt dicat, quòd delegat episcopum (scilicet ad universalitatem causarum ordinariorum, quod est constituere eum ordinarium), non tamen dicit quòd delegat ei *sua* auctoritatem, quod est eum constituere delegatum. Aliud enim est esse merè delegatum, aliud est esse delegatum à principe ad universalitatem causarum, quod ordinariorum est; quia, licèt tribuat episcopo Chalcedonensi jurisdictionem multò inferiorem suâ, parem tamen jurisdictioni aliorum ordinariorum. Quatuor



faciunt ordinarium,—princeps, qui est lex animata, canon, consuetudo, et universalitas approbata. Præterea, episcopalis pastor animarum habet auctoritatem immediatè à jure; ejusmodi est episcopus Chalcedonensis, ut dicit Pontifex Urbanus VIII., in brevi ad Ricardum Chalcedonensem; ergo, ex hâc ipsâ ratione hujus officii pastoralis, quod ei tributum est à pontifice, habet auctoritatem immediatè etiam à jure.”

If canon law, supported by the authority of a general council, and authorized by the commission of popes in their briefs, could make an ordinary, this bishop, of whom we are now speaking, must of necessity be granted to be one. For this reason it was that our agent at Rome, upon the reading of these briefs for his constitution and jurisdiction, in a rapture of joy broke out into these expressions, “Rem habemus, verba non moramur.”\*

\* From this argument the reader will be able, not only to gather the views and principles adopted by the advocates of the two bishops, but also to infer the nature of the opposition which the enemies of episcopal authority have constantly raised on the other side. It would appear that both parties are in extremes; as both, certainly, reason on erroneous principles. The latter, confining its attention to the clause which makes Dr. Bishop and his successor dependent on the pleasure of the Roman court, unhesitatingly impugns the nature of the authority with which they were invested; the former, looking solely at the faculties expressly conferred on them by the pope, boldly assert their independence, and deny the validity of the reservation that would render them revocable at the will of their superior. Each confounds privilege with power, the mode of holding or exercising jurisdiction with the jurisdiction itself; and thus each argues as if authority and title were the same thing, or, in other words, as if the peculiar functions of an ordinary could only be

performed by the ordinary himself in person. This is unquestionably an error. That Dr. Bishop and Dr. Smith were each commissioned to discharge the duties and exercise the powers of an ordinary, is expressly declared in the papal briefs; that they held their commission by way of delegation, and that the trust was either revocable at any moment, or at least terminable on the return of the nation to Catholicity, is not less certain: and it is clear, therefore, that although they possessed all the faculties, they were, nevertheless, deprived of that distinctive privilege which alone could entitle them to the appellation of ordinaries. "Rem habemus,"—we have the substance, the authority, for which we have been contending; "verba non moramur,"—we will not dispute about the name, or the title, of its minister.

This severance of the independence of ordinaries from the jurisdiction conferred on the two prelates, is shown by Dr. Lingard to have originated in one of those motives of petty jealousy which too often mar the counsels even of the most liberal governments. When the project of restoring the English hierarchy was first seriously entertained by Gregory XV., Cardinal Mellini, the organ of the Jesuits, undertook to counteract the design; and, among other representations calculated to influence the mind of the pontiff, referred to "the connection already existing between the French and English clergy," as an argument to show that "the latter, if placed under a bishop, would, in all probability, make common cause, and *demand the same privileges with the former.*" Gregory, though sincerely desirous to provide for the necessities of the English church, was not proof against such an appeal. The resistance of the British monarch was soon after announced; the pope, as we have seen, deemed it prudent to appoint but one bishop; and, "as it was doubtful how far the king might yield, *or the bishop himself might form connections with the French prelates,* he made him revocable at pleasure."—Hist. Eng. vii. note F, p. 552, 5th edn. This is an additional proof, if such were wanting, that the ordinary powers of the two bishops in question were held by them only as the vicars, or delegates, of the Roman court.

But, though these circumstances distinctly negative the assertion that Dr. Bishop and his successor were ordinaries, in the canonical sense of the word, that is, that they held their office by

original right, and administered its functions of their own authority, yet they must not be supposed to militate, in any manner, against the conclusions which it is the principal object of the author to establish. To demonstrate the ordinary canonical jurisdiction of the chapter, of which he is the advocate, it was requisite to show that it originally emanated from sufficient ordinary power ; but it was not necessary to discuss the tenure by which that power was held, or to prove that the parties, legitimately exercising it, were themselves independent of all superior authority. Of the power itself, even when stripped of every accident, enough remains to answer all the purposes of the present work.—See, as to the above, Dodd, vol. v. ed. Tierney.

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## PART III.

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### *Of the Institution of our Chapter, and of its unquestionable Validity.*

THIS pious and learned pastor, reflecting on the extent of his authority, and considering the strange confusion under the anarchy of the archpriest, that he might secure his clergy and flock from relapsing into such miseries again, having consulted the learnedest bishops, and such as had been ministers and officers of popes in the court of Rome, and the most eminent doctors he could find in the canon law,\*

\* This consultation, which was held, amongst other divines, with Herman Ottenburg, bishop of Arras, and formerly auditor of the Rota, at Rome, has been the source of much mistaken triumph to the enemies of the chapter. If Dr. Bishop, they have said, deemed it necessary to ask advice, where was the commission authorizing him to establish a chapter? if he had misgivings as to the competency of his own power, why may not we be allowed to question and deny it? The answer to each of these inquiries is, perhaps, more simple than its authors imagine. In the first place, Dr. Bishop needed no specific commission for the erection of a chapter. He was invested with "all and singular the faculties which ordinaries possess in their own dioceses;" and it is well known that, of these, one of the most essential is the right of forming the establishment in question. In the next place, Dr. Bishop's doubts regarded, not the abstract question of his competency to erect a chapter, but the more practical one of his power to institute it, under the peculiar circumstances of the country at that moment; in other words, he paused to consider, not his own authority to create, but the fitness of the country to

resolved on the erection of a chapter, as a standing senate and council for his own assistance, and, *sede vacante*, to exercise episcopal ordinary jurisdiction :

receive, this important branch of the hierarchy which he was endeavouring to restore. This fact, which it is of the highest consequence to remark, is expressly stated by himself, in the very instrument whereby he calls the chapter into existence. He found himself, he says, without those external accessories which time and custom appeared to have rendered almost essential to his object. There was no material church wherein to fix his see ; there were no revenues for the support of the canons whom he was about to create ; but there was a body of the faithful to be governed ; there were the duties of religion to be discharged ; and he deemed it right, therefore, to inquire whether, according to the example of the earliest ages of Christianity, the temporal appendages might not be dispensed with, while the spiritual advantages were secured. The following are his words, which distinctly point to this, as the only subject of the consultation mentioned in the text:—"Quòd si Ecclesiam materiale[m], in quâ sedem nostram figamus, necdum, per temporum conditionem, habeamus, uti nec redditus ecclesiasticos, unde capitulum et singula ejus membra de more honestè sustententur, id instituto nostro nequaquam obstare debet, cùm etiam antiquissimis Christianis, apud quos tamen ecclesiasticæ disciplinæ forma sanctissimè constituta inviolabiliter, etiàm in mediis persecutionibus, semper viguit, ejusmodi subsidia ac proventus defuerint. Id nobis satis superque est, quòd spiritualis Ecclesia non desit, id est, cœtus fidelium, &c. Quapropter, post maturam hâc de re habitam deliberationem, non tantùm cum prudentissimis gentis nostræ hominibus, verùm etiàm cum exteris prælatis sapientissimis, qui ad episcopum spectare, inque illius potestate situm esse censuerunt, decanum et capitulum in suâ diœcesi constituere, illudque, ad conservandam episcopalem atque ordinariam jurisdictionem, omninò expedire, in eam devenimus sententiam, ut, prædictis de causis, decanum et capitulum Catholicum, à multis jam annis collapsum, instauraremus, et, quantum in nobis est, ad suam originem revocaremus : servatâ tamen in hoc, ut et in cæteris omnibus, debitâ ergo sedem apostolicam reverentiâ atque

and this he did in as plenary and ample a manner as any bishop in the world could express [it]. His episcopal instrument begins thus:—“*Gulielmus, Dei et apostolicæ sedis gratiâ Episcopus Chalcedonensis, Ordinarius Angliæ et Scotiæ, universis præsentis literas visuris salutem, &c.*—Anno 1623, decimo Decembris.” And, not long after, Urban VIII. succeeding to the pontificate, he commissioned Mr. Rant agent for him and his clergy at Rome, styling himself, in his patents, “*Ordinarius Angliæ et Scotiæ,*”—which met with not the least contradiction at that see, though the chief design was thereby to give his holiness notice of his erecting a dean and chapter. And, as for England, both seculars and regulars acknowledged both our bishop and chapter; which made a learned eyewitness testify the unanimous approbation of it, in these words:—“*Hæc erectio usu confirmata est, reliquo ipsius vitæ spatio; et non solum à clero seculari, sed etiam à regularibus, agnita.*” But God was pleased, in the first year of his episcopal charge, to take him to a better place;\*

observantiâ; cui propterea supplicandum duximus, ut quicquid potestati nostræ in hac parte meritò deesse poterit, id summi pastoris suffragio ex potestatis suæ plenitudine, suppleatur.”—Dodd, iv. cclxxxi. ed. Tierney. It may here be added, that this concluding reference to the papal see, which has so often been supposed to argue a doubt, on the part of Dr. Bishop, as to the fulness of his episcopal authority, evidently amounts to nothing more than a request that, looking at the peculiarity of the circumstances attending the erection of his chapter, the material or temporal appurtenances of such a body might, if otherwise necessary, be dispensed with.

\* Dr. Bishop, who, to all the virtues that dignify the Christian and the prelate, added much of the learning that adorns the scholar, died at Bishop’s Court, the seat of Sir Basil Brooke, in

and, upon the vacancy of the see, the chapter entered upon the jurisdiction, and ordered Mr. Rant, their agent then at Rome, to supplicate for a successor. In February, 1625, [their prayer] was granted, and [the dignity was] conferred upon Dr. Richard Smith, by a brief of Urban VIII., [addressed to him] in the same tenor as [that to] his predecessor. He used no other style than "*Ordinarius Angliæ et Scotiæ*."\*

In execution of his episcopal jurisdiction, the same year he divided the provinces of England and Wales into a certain number of vicariats and archdeaconries; constituted seven vicars-general, and twenty-three archdeaconries (allotting to each vicar-general and archdeacon his proper district, and constituting also rural deans under the said arch-

the neighbourhood of London, April 16, 1624.—Dodd, ii. 58, orig. edn. There is a short notice of his life in Wood's *Athenæ Oxon.* i. 488; and a more detailed account of him in Dodd, ii. 361—364, and 465—472, orig. edn.

\* Dr. Richard Smith was born in Lincolnshire, about the year 1566; studied at Oxford, at Rome, and at Valladolid, and, having been advanced to the priesthood, returned, to enter on the duties of the English mission, in January, 1603. Four years later he was despatched to Rome, as the agent of his clerical brethren; and in that character continued, during a lengthened residence, to support the interests of the English church, in opposition to the efforts of Persons, and his friend Fitzherbert. When, at length, a bishop was about to be appointed for the superintendence of the British Catholics, the gratitude of the clergy prompted them, as the reader will recollect, to place Dr. Smith, together with Dr. Bishop, in nomination for the intended dignity. A similar feeling now successfully renewed the postulation in his favour: he was consecrated at Paris, by Spada, the papal nuncio, and in May, 1625, arrived in London. For a

deacons); \* and, in 1627, confirmed, by his letters patent, the chapter, in a more ample manner; settling first an agent at Rome, to treat of the affairs of him and his clergy, and to acquaint that see with his proceedings, none of which were in the least either opposed or disapproved of by that court. And now we are come to the beginning of our troubles; for, whilst our vigilant pastor was labouring for the good of his flock, and solicitous how he might best render an account to God of the souls committed to his charge, for the clearing of his conscience, he thought it proper to have an inspection of the pastors; and therefore proposed to the superiors of the regulars, whether it was not expedient that their subjects should have his approbation for hearing and receiving the confessions of the laity, as his ordinary episcopal jurisdiction required.† Some unwillingly submitted

more detailed history of his life, see Dodd, iii. 4—17, and 76—79, orig. edn.

\* The several forms, prescribed by Dr. Smith, to be adopted in the creation of vicars-general, archdeacons, rural deans, and canons, may be seen in Dodd, iii. 150—153, orig. edn.


† By a decree of the Council of Trent, it was ordained, “Nullum presbyterum, etiam regularem, posse confessiones sæcularium, etiam sacerdotum, audire, nec ad id idoneum reputari, nisi aut parochiale beneficium, aut ab episcopis per examen, si illis videbitur esse necessarium, aut aliàs idoneus judicetur, *et approbationem*, quæ gratis detur, *obtineat*.”—Sess. 23, cap. 15. In 1571 the rule here laid down was adopted by Pope Pius V., in the bull “*Romani Pontificis* ;” and, fifty years later, was explained and enlarged by Gregory XV., in a similar document, entitled “*Inscrutabili*.” After reciting the words of the decree itself, the latter adds,—“Verùm quia experientiâ compertum est, ecclesiastici regiminis rationes postulare ut decretis ejusmodi aliquid adjungatur, maturâ deliberatione nostrâ, et ex certâ



thereto ; but the Benedictines and Jesuits first gave shifting answers, and, at last, absolutely refused to comply. *Hinc dolor, hinc lacrymæ !* Had he not

scientiâ, ac de apostolicâ potestatis plenitudine, hâc generali ac perpetuò valiturâ constitutione decernimus, statuimus, et declaramus, ut deinceps tàm regulares, quàm seculares, quomodolibet exempti, sive animarum curam personarum secularium monasteriis, seu domibus regularibus, aut quibusvis aliis ecclesiis vel beneficiis, sive regularibus sive secularibus, incumbentem exercent, sive aliàs ecclesiastica sacramenta, *aut unum ex illis*, ministrent, *præviâ episcopi licentiâ et approbatione*, sive quoquo modo in dictæ curæ exercitio, aut in eorundem sacramentorum, *vel alicujus ex illis*, administratione de facto, absque ullâ auctoritate, se ingerant, in his, quæ ejusmodi curam seu administrationem concernunt, omnimodæ *jurisdictioni*, visitationi, et correctioni diœcesani episcopi, *tanquam sedis apostolicæ delegati*, plenè *in omnibus subjiciantur.*" (Cabasutius, 55.) This bull, which is addressed to the universal church, is dated February 5, 1622, only five years before the commencement of the dispute mentioned in the text : and the real matter of surprise, therefore, is, not that Dr. Smith now called on the regulars to acknowledge his jurisdiction, but that both his predecessor and himself omitted to assert their authority, from the first moment of their entrance on the duties of their station. That whatever faculties the several bodies of religious might have possessed under the archpriests were annulled by the appointment of an episcopal superior, is evident from all the documents to which I have referred. If their members neglected to obtain the approbation of that superior, they were clearly incompetent to act in the tribunal of penance : in the language of the schools, they were exercising the power of order without the power of jurisdiction ; and it consequently became the duty of Dr. Smith to supply the omission of his predecessor, and arrest the progress of the evil resulting from this irregular proceeding. Yet, even in the very act of vindicating his authority, the same pacific and conciliating disposition which, probably, during the first two years of his episcopacy, induced him to be silent, was beautifully displayed. He addressed himself to the *superiors* of the several





meddled with them, he had still been an ordinary, and his chapter canonical: but, presuming once to exercise his jurisdiction on them, they debase and vilify both, alleging that he went beyond his limits (as if all regulars were not absolutely, by the canons, under their ordinary), and affected a patriarchate, or popedom. They began then to cry out aloud, that the chapter was null, and that he pretended to erect external tribunals, which would render all Catholics obnoxious to the penal laws.\* Nay, some of them (of whom Father Rudisend was the incendiary), hindering the rest of that (the Benedictine) order from submitting, published a libel against the bishop, and craftily invited the king to proscribe him, alleging that this “*novum tribunal, et ecclesiastica jurisdictio*,

religious orders: he suggested the propriety of *their* communicating his wishes to their subjects: he offered, in order to satisfy their objections, to refer the decision of his claim to the papal see: and he actually published a provisional document (Dodd, iii. 138, orig. edn.), permitting all regulars then “lawfully on the mission,” to continue in the enjoyment of the contested faculties, until the judgment of the Roman court should be obtained. But this did not suit the views of those who had vowed obedience to an authority selected by themselves, in opposition to that established by the founder of the Church. The proposal was rejected: the power of the bishop was defied; and the painful proceedings, alluded to in the text, immediately ensued.

\* “*Et si qui sunt (ut paucissimos esse arbitror) qui episcopali potestati introducendæ adversantur, ii plerumque, ut putatur, ex falsâ informatione id faciunt, putantes quòd episcopus in animo habuerit, in laicorum Catholicorum præjudicium novum tribunal erigere, testamenta probare, decimas colligere, sacerdotes in eorum ædibus, ipsis iuvitis, collocare, et similia.*”—Attestation of Cuthbert Trollop, vicar-general, dated Sept. 24, 1631. Dodd, iii. 149, orig. edn.

“est valdè ingrata suæ majestati, et omnibus Protes-  
 “tantibus hujus regni,” and moving “ut sua majestas  
 “per publicum edictum præciperet omnibus subditis  
 “suis, sub pœnâ mortis, ne in domos reciperent, aut  
 “aliquo modo sublevarent, episcopum Chalcedonen-  
 “sem, aut quemquam ex suis officialibus ; atque ut  
 “extemplò detegerent ac denunciarent eos magis-  
 “tratui, ut homines periculosos, turbulentos, et ad-  
 “versarios sibi ipsi, suoque temporali regimini,” &c.\*

This unchristian calumny had its desired effect ;  
 for, by this, our pious and chief pastor was forced  
 into banishment, and died in it.† To this calum-

\* This publication, the production of Father Rudisend Barlow, was entitled “Mandatum reverendi admodum patris, præsentis generalis, et definitorum regiminis totius congregationis Angliæ S. Benedicti.” There was prefixed to it a forged approbation, purporting to have been obtained from the faculty at Paris, and signed by five persons, falsely representing themselves as doctors of the Sorbonne. As soon as the book arrived in Rome, it was condemned as “scandalous and erroneous ;” the printed copies of it were ordered to be burned, wherever they might be found ; and Dr. Smith himself was specially charged with the execution of this decree in England.—Dodd, iii. 157, 158, orig. edn. The following passage from a letter written on the occasion, by desire of the nuncio at Paris, to the bishop of Chalcedon, deserves to be inserted :—“As for the case itself, all the divines that have heard it here are of opinion that the regulars be bound to ask your approbation, and do wonder that the regulars do make no distinction betwixt ‘*terre infidelium*’ and ‘*terre hæreticorum*,’ as though the privileges granted to them in ‘*terrá infidelium*,’ were to any purpose in England. Divers of the doctors here, long since, when that controversy did first arise, offered to give their subscriptions in your behalf : but then, for quietness’ sake, you refused it.”—Dodd, iii. 157, orig. edn.

† See the details of this transaction, in Dodd, iii. 78, orig. edn., and Butler’s Mem. of Eng. Cath. ii. 305. The two pro-

niating libel, so defamatory and false, which caused great confusions amongst the Catholic party, our pious prelate publishes a modest declaration of his episcopal authority, to wipe off the aspersions cast upon him, the substance whereof was, that the Church hath power to bind and loose, *tàm in foro interiori quàm exteriori*; that, as the external court can bind notorious and scandalous sinners, by censures, deprivations, and suspensions, which is a pure spiritual authority, so likewise, in Catholic countries, it decides divers litigious causes, and inflicts temporal, as well as spiritual, mulcts and punishments, and is vulgarly called the bishop's court; that he pretended not in the least to this last, but that the former was his essential due, as bishop; and that, consequently, he had power more than in the mere internal court of conscience, as each simple priest hath. This evangelical and calm reply could not in the least appease their boisterous temper; for they spread their aspersions, both at home and abroad, even in the courts of princes; and sent up their plea against him to the court of Rome; and surreptitiously obtained a bull from Urban VIII., in 1631, not in the least derogatory to the episcopal ordinary jurisdiction\* (as the said regulars divulged abroad),

clamations for his apprehension, the first dated Dec. 11, 1628, the second March 24, in the following year, and both issued in consequence of the "unchristian" clamours of the regulars, may be seen in Dodd, iii. 143—145, orig. edu.

\* This expression may be understood to mean, either that the bull "*Britannia*"—so it was called—was in no degree derogatory to the ordinary power of Dr. Smith, *as distinguished from that of other bishops*, or that it denied not the reality of his ordinary jurisdiction, though it declared that the regulars had

but, in many passages, confirming and strengthening it, yet allowing some favour to the regulars, in the main point, concerning the bishop's approbation of their faculties. The clergy, in the interim, were not wanting to themselves, and, upon examination, found that these unquiet spirits had not rightly informed his holiness of the circumstances and state of affairs; wherefore they obtained leave of Bishop Richard to send a supplication to the pope, that, till his holiness was rightly informed, the publication of the bull might be deferred. In the same supplication, by

been, and still were, exempted from its control. The latter of these interpretations is agreeable to the sense in which the author elsewhere employs the word *derogatory* (p. 62, *post*): but both are in strict accordance with the terms of the bull. Dr. Smith, relying on the authority with which he had been invested, had claimed the right of examining and approving such of the regulars as wished to hear the confessions of the laity: the regulars, on the other hand, determined to assert their independence, had first impugned the authority, and then denied the right, of the bishop; and the pope, if we are to believe this document, called on to decide between the contending parties, declared, not that Dr. Smith's claim to ordinary jurisdiction was unfounded, nor that the religious were placed specially beyond *his* superintendence, but that the approbation of *any* bishop was unnecessary to such regulars as were commissioned immediately by the Holy See. "We declare," he says, "that the confessions, which have hitherto been heard by regular priests, were valid, and so shall be hereafter. For, since they did hear them hitherto, and so shall do hereafter, by apostolical authority, *ordinary leave or approbation* neither was, nor is hereafter, needful unto them."—Dodd, iii. 160, orig. edn. If these words be intended to apply to the case of Dr. Smith, it is evident, first, that the passage contains a distinct acknowledgment of his ordinary jurisdiction, and, secondly, that the decision only affected his power, in common with that of every bishop in Christendom.

eleven reasons, it was demonstrated that his holiness had not been truly informed of the question in debate, and that this new bull seemed to invalidate the decree and edict granted to the bishop in January, 1627.\* [In addition] to this, they obtained a letter from the queen in their behalf, to some eminent persons, in which she assured them, that certain persons had banded themselves against the bishop of Chalcedon, not only to deprive him of

\* Of these documents I have been unable to discover a copy. From the author's words, however, it would appear that the object of "the decree and edict" was to place the regulars under that control, from which the present bull was intended to relieve them. That this bull was founded on the false and interested informations of Dr. Smith's enemies, and that the "supplication" was correct in asserting that the pope had been deceived as to the real merits of the case, is fully established by a letter from La Fontaine, the French ambassador in London, wherein the writer, speaking of the instrument in question, says:—  
*"Nostre saint père, peu fidèlement informé de l'estat de la religion de ce pays, pour s'en estre rapporté, ou aux religieux, qui sont parties, ou à une certification qu'a faite Don Carlos Colonna, qui est encore plus partie qu'eux, . . . a envoyé un bref en leur faveur, se relachant de ce qu'on avoit toujours fait esperer à l'evesque (que personne ne pourroit icy exercer les sacraments paroissiaux sans son approbation), et donnant aux réguliers toute la liberté qu'ils désiroient. . . . Mais les réguliers ayant soigneusement poursuivis leur affaire, ils ont obtenu le bref, dont il est aujourd'huy question; lequel estant grandement préjudiciable à l'evesque, et donné sur un fondement qui n'est pas veritable, je vous supplie très humblement, Monsieur—(he is writing to the French ambassador in Rome)—de vouloir faire entendre au pape, et aux cardinaux de la congrégation, comme la chose s'est passée," &c.—The whole of this letter, which exposes the conduct adopted by the regulars, to deceive the Holy See, is in Dodd, iii. 143, orig. edn. On the same subject, see also the same volume, pp. 149, 150.*

his jurisdiction, but also to rob him of his good name; that it was necessary episcopal power and authority should be maintained in the country, in its perfection, without being any ways weakened or diminished; and so requested them to assist his agent, with favour and credit with the pope.\* This was done in 1631.

In fine, this supplication and remonstrance prevailed so with the apostolic see, that the bull was never promulgated,† and consequently [was] of no

\* This letter, which is dated August 10, 1631, is in Dodd, iii. 141, orig. edn. In the same place, there is also another letter from the queen, written on the 23rd of the following November, and inclosing a memorial, to be presented to the pope “au nom du clergé, et de la plus grande et meilleure partie des Catholiques laïcs de ce royaume.” The memorial itself succeeds, in the next page, and, *without even noticing the supposed bull of the preceding May*, earnestly implores the pope that, “tum ad factiones sedandas, tum ad tollendos abusos, . . . . . auctoritatem episcopalem ordinariam reverendissimi episcopi Chalcedonensis novo aliquo diplomate declarare, seu confirmare, eundemque, integrâ ac plenâ potestate instructum, pro bono ac solatio animarum, in Angliam quamprimum transmittere, dignetur.”

† The total silence of the memorial, mentioned in the preceding note, coupled with the previous remonstrances of the same parties, would of itself afford a strong presumption, not only that, in November, 1631—more than six months after the date of the bull in question—that document had not been promulgated, but that the intention of publishing it had, in reality, been abandoned. The fact, indeed, appears to be, that, though drawn up and prepared for execution, the instrument was arrested, in its last stage, by the measures recorded in the text. Mr. Butler could never discover it in any bullarium; and it is well known, that, as Dodd informs us, its validity was never acknowledged, in practice, by the friends of episcopal authority (iii. 13 *rel* 17). It may be added, that, on the 12th of July, 1633,

force here; and so the episcopal ordinary jurisdiction remained as inviolate as from the beginning. Yet the regulars made so great oppositions against it, and persecuted this good prelate so violently with their calumnies, that, like another Jonas, or Gregory Nazianzen, “cupiens sacrificari pro grege sibi commisso, et projici in mare, ut sedaretur tempestas orta suæ personæ invidiâ, nocere publicæ saluti existimans, petiit onus sibi impositum in gratiores humeros transferri.” To which petition he received this answer:—“Procedi eodem ecclesiasticæ administrationis ordine posse, donec sanctissimus sese declararet;” and the same [reply] was returned by Mr. Fitton, the agent, viz., that the jurisdiction was always to remain valid in him till the court should finally determine that affair; wherefore, no determination being made, and no other bishop sent, the former bishop continued in his full authority and episcopal jurisdiction. Insomuch that, in 1635, the superiors of all the orders, except the Jesuits, considering the ill effects of so long a discord, resolved Urban himself issued the bull “*Plantata*,” for the purpose of confirming the ancient rights and privileges of the English congregation of Benedictines; and that, in that document, the only passage of the pretended bull “*Britannia*” which trenched on the authority of Dr. Smith, was expressly contradicted. After speaking of other immunities, the pontiff continues—“*Neenon eandem congregationem, ejusque monachos, ab omni quorumcumque ordinum, aut aliorum quorumlibet, visitatione, auctoritate, &c. (non tamen in casibus, in quibus, per decreta concilii Tridentini, ordinariis locorum tribuitur jurisdictio, etiam in exemptos), perpetuò eximimus,*” &c.—Dodd, iii. 163, orig. edn. With what effect these persons could, after this, administer the sacrament of penance, remains for their defenders to show.



upon an amicable agreement with the bishop (then in France) and the clergy, by the mediation of Signor Gregorio Panzani, sent from his holiness into England, who, among other things, was commissioned to treat of a union between the Right Reverend Bishop Richard of Chalcedon and all the regulars; which was concluded on, and by the doing of which, the regulars owned the exercise of episcopal jurisdiction to be still in the bishop, though this happened four full years after he had solicited Pope Urban VIII. to dispense with his resignation. Yet, for all this, the Jesuits showed no such spirit of peace. They shuffled, put off, pleaded excuses, and I know not what frivolous pretences, in their letters to Gregorio Panzani; but as for actual treating about the concord with the rest, they never performed it.\*

The good bishop, seeing so powerful a party standing off, perceived little security of peace amidst such subtile and potent enemies, and therefore patiently continued in his exile, as many popes and other holy bishops had been compelled to do.

\* The "*instrumentum concordie*," drawn up on this occasion, is in Dodd, iii. 132, orig. edn.: a translation of it, or rather of a part of it, is printed in the *Memoirs of Panzani*, p. 217, and, more completely, in *Butler's Memoirs of English Catholics*, ii. 354, and 360, note. More also has printed it in his *History of the Society of Jesus*, 469, 473. It is dated November 17, 1635, and is signed by George Fisher, John Southcot, and Thomas White, on the part of the clergy, and by three Benedictines, two Dominicans, two Franciscans, and two Carmelites, on the part of their respective orders. See a full account of this transaction in Dodd, iii. 132—138, 153—155, orig. edn., and in *Berington's Memoirs of Panzani*, 217—232.

Yet the Benedictines came to more special articles of concord with the clergy; and, which is greatly to be observed in all this controversy, nothing in the least was questioned concerning the validity of the chapter till, in the year 1640, a design of Count Rossetti's to abrogate the dean and chapter was discovered. But immediately a letter was despatched to Cardinal Barberini, our protector, subscribed, "Antonius Champneus, capituli cleri secularis in Angliâ decanus," with seven archdeacons, the sum whereof was, to protest against the said design; and so no more was heard about it. Nevertheless, our vigilant pastor, fearing what pretences might be made use of after his death towards the abolishing of that standing ordinary jurisdiction, in the year 1645 made a more ample confirmation of the dean and chapter than that which he had made in 1627, in this tenor:—"Ricardus, Dei et apostolicæ sedis gratiâ, Episcopus Chalcedonensis, ordinarius Angliæ et Scotiæ," &c.; which instrument was composed and framed by the advice and judgment of the most eminent and learned in the canon law at Paris, the fame of which could not but reach the apostolic see, which yet neither said nor did anything contradictory or derogatory to it.\* So that the chapter was

\* This instrument, which is printed partly in Dodd (iii. 140, orig. edn.), and partly in the "Encyclical Epistle" of the dean and chapter, published in 1660 (p. 24), is dated at Paris, January 8, 1645. Having expressed his anxiety for the welfare of religion, and the improvement of the flock intrusted to his spiritual charge, the bishop refers to the erection of the chapter by his predecessor; recites the advantages of such an institution, particularly in preserving the ordinary jurisdiction of the see, in the intervals of its appointments; and then proceeds to declare, that, as he had for-

firmly established by the authority of two bishops, *sciente et tacente sede apostolicâ*.

About this time, God was pleased to call our holy

merly approved, so he now again, in the fullest, most unequivocal, and most emphatical manner, “approves, ratifies, and confirms the said chapter,” establishing all and each of its members in the enjoyment of their present dignity and privileges, granting them the right of voting on all subjects brought before them in chapter, and investing them with the power of hearing and determining all causes in the spiritual court, which shall be regularly referred to their decision. He provides that the number of canons, including the dean, shall not exceed thirty; that, in the event of vacancies, all elections shall be subject to the approval of the bishop for the time being, unless the see shall happen to be void for any lengthened period; that, in addition to *the nomination and election of each succeeding bishop*, the body shall possess whatever other power and authority are, of common right, and by the universal custom of the Church, acknowledged to belong to a dean and chapter; but that it shall continue to exist, and to exercise these privileges, only until such time as other bishops shall be appointed to English sees, and other chapters shall be erected within the kingdom. \*

Such is the instrument whereby Richard, bishop of Chalcedon, gave form and durability to the chapter of the English church. By some persons, indeed, whose objection is drawn, not from the document itself, but from a loose expression of Dodd’s (iv 286, ed. Tierney), it has been supposed to operate in the double capacity of an abrogation of the original erection by Dr. Bishop, and of a bar to the existence of the present capitular body. But to such reasoning it may, perhaps, be sufficient to reply, first, that to “confirm” is not to annul, and to “ratify” is not to destroy; secondly, that the deeds of “*inspeximus*” issued by our kings, and the numerous confirmation charters granted by each successive patron to our ancient religious establishments, were never understood to invalidate the original titles, or alter the nature of the several foundations; and lastly, that the same power which could dissolve, could also create, a chapter, that neither the terms nor the intention of the instrument in question

prelate *ad coronam justitiæ*. He departed at Paris, and lies interred in the church of the English canonesses

can be said to have been merely destructive, and that, consequently, even if one of its effects were to abolish the former institution, another unquestionably was to call a fresh one into existence. The fact, however, is, that there was no dissolution of the original, and, therefore, no creation of a more recent body. Dr. Bishop had erected the chapter, as to all its essential properties, but its integrity was not yet complete. He had neither fixed the number of canons, nor prescribed the mode of election, nor determined any of the laws by which its members were to be governed. On each of these subjects his charter of foundation was wholly silent; and Dr. Smith, therefore, as his successor, invested with the same authority, undertook to supply these deficiencies, not, of course, by abrogating what had already been established, but by adding what was still required to render the institution perfect. That this, and even more than this, was strictly within his province, is evident from the decree of the Council of Trent, which expressly provides that all bishops shall have power to “visit, correct, and amend” the chapters of their respective churches.—Sess. 6, cap. 4, de Reform.

Before concluding this note, it should be added that Dodd’s copy of Dr. Smith’s patent of confirmation, taken from a transcript formerly in Doway College, omits the whole passage relative to the power of the chapter to nominate and elect the bishops; but that the omission is fortunately supplied from the original, in the encyclical epistle of the dean and chapter, referred to above. As the passage is of much importance, it is here subjoined. After the words “*dummodo numerus canonicorum, cum decano, triginta non excedat,*” as in Dodd, the instrument thus proceeds:—“*Jurisdictionem episcopalem, ad regimen ecclesiasticum et disciplinam procurandam necessariam, sede vacante, exerceant; etiam censuras ecclesiasticas, ubi opus fuerit, infligendo, et pronunciando, in casibus tamen à jure permissis. Episcopi, in nostrum aut successorum nostrorum defunctorum locum subrogandi, nominationi et electioni adsint et faciant, atque ita à se nominatum et electum summo pontifici, pro tempore existenti, condignâ humilitate ac reverentiâ præsentent, apostolico calculo approbandum,*”—and

regular of St. Austin, with this inscription on his tomb:—

“ Illustrissimo ac Reverendissimo Domino, Domino Ricardo Smithæo, Episcopo Chalcedonensi, totius Angliæ et Scotiæ Ordinario, à falsis fratribus vendito, pro fide proscripto, fide vitæque integerrimo, fidei pugili strenuissimo, pro fide Catholicâ Apostolicâ Romanâ muro, hæreticorum malleo, famoso, annoso, probato, justo, recto, diem ultimum claudenti, anno Domini 1655, 18 Martii, ætatis suæ 88, hoc mortalitatis memoriale filiæ flebiles flentesque, pro fide et ipsæ exules, mundo mortuæ, pio patre et benefactore optimo orbata, posuere Sionis filiæ Angliæ. Requiescat in pace, Amen.”

Upon the decease of this bishop, the see being vacant, the exercise of episcopal and ordinary jurisdiction devolved, *jure communi, et universali Ecclesiæ consuetudine*, on the chapter, of whose nature and validity we are obliged now to speak, and to show how just and canonical it is. We are to observe, then, that that which is now called *capitulum*, in the primitive times was styled *collegium cleri*, id est, *presbyterorum et diaconorum*, which, when it was convoked on ecclesiastical concerns, was termed *presbyterium*; as St. Paul hath it, “Cum impositione manuum *presbyterii*” (1 Tim. iv. 14). St. Jerome (Epist. ad Rufinum) calls it *senatum*; and from him the Council of Trent (Sess. 24, cap. 12), *senatum episcopi*. For this reason it is that we find so frequent mention of the *seniores*, or *presbyteri*, in the

then continues—“cæteraque agent,” &c., as in the Doway copy. —Encyc. Epist. p. 24.

New Testament, even in the apostles' times, especially when there was any determination or decision of any matter of moment ; as [when it was debated] whether circumcision and the Mosaical laws were to be observed by the converted Gentiles, the apostles and the ancients, or *presbyteri*, were assembled to consider of this word (Acts xv. 5, 6), and the decision of it was sent to Antioch, in an epistle of the apostles and presbyters (*ibid.* 23). For this cause it was that St. Paul, admonished by the Holy Ghost that he should be removed from those parts, and so [become] incapable of having a personal inspection over that flock, called the presbyters of the church of Ephesus, [and] earnestly recommended to them the charge of the flock, over whom the Holy Ghost had placed them overseers in his absence, or *quasi sede vacante* (Acts xx. 17, 28). For we are to take notice of one remarkable observation, that neither St. Paul nor any of the apostles at first did consecrate or ordain any bishops, as immediate pastors over the churches they had established, but only erected these presbyteries, reserving the jurisdiction and government of them to themselves ; and therefore, for this purpose he taketh a journey with Barnabas, returning to "visit the brethren in all the cities wherein they had preached the word of the Lord, to see how they do" (Acts xv. 36); and chargeth himself with the oversight of those churches wherein he had planted the colleges of presbyters aforesaid,—“besides those things that are without, that which cometh upon me daily, the care of all the churches” (2 Cor. xi. 28). Hence he exercised his discipline on the incestuous Corinthian,

which the rulers of the church had neglected to do, and, which is most remarkable, he ordered them to see this his sentence of excommunication ratified and executed, when they were “gathered together, and his spirit,” which ruled there in chief, for the time (1 Cor. v. 4). So St. Paul and Barnabas “ordained them presbyters in every church” (Acts xiv. 22); and, upon an extraordinary emergent occasion, made Titus, indeed, bishop of Crete, but, withal, ordered him to “set in order the things that were wanting, and constitute elders (presbyters) in every city, as he (St. Paul) had appointed” (Titus i. 5). And, not to be too tedious in a matter never yet called in question, and concerning which St. Peter gave such endearing and pathetic instructions and admonitions, the unanimous testimonies of the fathers confirm us in the same explication. Tertullian saith (Apolog. No. 39), “Præsident probati quique seniores,” id est, presbyteri. St. Ignatius (Epist. ad Trallianos, No. 3 et 7) asks, “Quid est presbyterium, nisi sanctum concilium, consilarii, assessoresque episcopi?.....Episcopus, vice Christi, presbyteri, loco consessûs apostolici, præsident.” St. Jerome, in his Commentary on St. Paul’s Epistle to Titus, says, “Episcopi meminerint in communium presbyteris Ecclesiam regere,” &c. St. Cyprian (Epist. 49, et alibi) makes frequent mention of the *presbyterium*; and Pope Cornelius, his contemporary (Epist. 46, inter Epist. S. Cypriani), tells him, “Omni igitur actu ad me perlato, placuit contrahi presbyterium.....ut firmato consilio quid circa personam eorum observari deberet, consensu omnium statueretur.” The same says Pope Siricius (Epist. 2).

Alexander III. decreed the same ; and the Council of Trent obliges the same (Sess. 5, cap. 1 ; Sess. 23, c. 18 ; Sess. 24, c. 12 et 15 ; Sess. 25, c. 6, 8, 10, de Reform.).

As the antiquity of chapters is coeval with episcopacy, so are their jurisdiction and government, *sede vacante*, the natural right of them, derived from the institution of Christ, and authorized by the practice of the apostles, and the primitive discipline of the Church. The many epistles between the Roman clergy and the Carthaginian see offer us most ample testimony of convoking a council, *sede vacante*, concerning the case of the *lapsi*, [and for] determining how they were to be treated ; and, in the third epistle (inter Epist. S. Cypriani), they thus express themselves :—"Cum incumbat nobis, qui videmur præpositi esse et vice pastoris, custodire gregem," &c. To this regular clergy St. Cyprian writ, as in whom the power and authority of the see apostolic (as at this time they remain in the college of the cardinals, the pope's chapter) resided, *sede vacante* ; and to them (I mean in each diocesan church), for a long time, did properly and peculiarly belong the election of the new bishop, till the suffrages or postulations of the laity, in some measure allowed of, brought many irregularities and disorders along with them, and then it was restrained to the metropolitan and comprovincial bishops ; till, at length, this freedom of election was encroached on by temporal sovereigns, or near extinguished by the pretence of a court, which would fain nominate all, and be all in all.\*

\* As the reasoning contained in the two preceding paragraphs



This being premised, an easy and obvious return might be made to all interrogatories and questions

affects not the real merits of the question at issue, it will be unnecessary to detain the reader further than to remark, first, that the author confounds the "*presbyterium*," or *entire college* of the clergy, with the "*capitulum*," which was a *select body*; secondly, that his interpretation of Scripture is at variance with that of the most approved commentators; thirdly, that although he cites the example of one patriarchal church, whereof the clergy assumed the government on the demise of the bishop, he conceals or overlooks the fact, that in France, at the very same period, and as late as the middle of the twelfth century, the administration of all suffragan sees, under the same circumstances, devolved on the metropolitan (Bergier, Dict. Théol. art. *Chapitre*); and lastly, that, as the necessary consequence of this, his assertion as to the divine origin of capitular jurisdiction, and the primitive or natural rights of episcopal chapters, is in direct opposition to historical truth. In addition, he is equally incorrect in supposing the postulations of the laity, in the election of bishops, to have been an encroachment on the ancient and exclusive privileges of the chapters of the several sees. Those postulations are mentioned at the earliest periods. St. Cyprian, in the middle of the third century, declares that he was raised to the episcopal charge "by the suffrages of the whole people" (Epist. 55, No. 7, and 68, No. 6); and Peter, the successor of St. Athanasius in the church of Alexandria, describing the election of the Arian intruder Lucius, mentions the absence of these suffrages, as one of its irregularities,—*οὐκ ἐπισκόπων ὀρθοδόξων συνόδῳ, οὐ ψήφῳ κληρικῶν ἀληθινῶν, οὐκ αὐτῇσει λαῶν, ὡς οἱ τῆς ἐκκλησίας διαγορεύουσι θεσμοί* (Theodoret, lib. iv. cap. 22). On the other hand, the earliest instance, discovered by Fleury, even of an attempt on the part of the cathedral chapters, at least on the continent, to confine the elections to their own bodies, is alluded to in a decree of the second council of Lateran, held in 1139, whereby the canons are strictly forbidden to exclude the religious from a share in the choice of their episcopal superiors.—Concil. Lat. can. 28; and Fleury, Hist. Ecclés. liv. 68, n. 54. See also the same History, liv. 46, n. 47.

concerning the ordinary jurisdiction of the chapter, *sede vacante*. For it is an unquestionable axiom in natural and political institutions, *quòd qui dat esse dat consequentia ad esse*; [and] our bishops, being truly ordinaries, designed the chapter for the continuation of ordinary episcopal jurisdiction among us, as has already been demonstrated, by their erecting this chapter in the most ample and plenary manner that could be expressed, and signifying this act of theirs, in their own or their officials' name, in no less than twenty-seven formal instruments, drawn up and presented to the pope himself, the cardinals, and court of Rome, without the least reprehension or contradiction. It being, then, the indubitable right of all bishops, by the canons of the Church, to erect chapters, with an equal authority to themselves, *sede vacante*, in what respects or relates to the government of the church, [it is evident] that therefore this chapter, erected by them, must be allowed to have the same unquestionable authority as they had, and, by consequence, jurisdiction too. But, for a more clear solution of all doubts, let us examine now what objections (for what so solid, what so sacred, against which objections have not [been], and might not be, made?) have been offered against it, and what force they have.

First, then, they object from that rule of the canon law,—“*nullum capitulum sine sede*.”

I answer, first, by retorting the argument upon themselves,—“*neque episcopus sine sede*,” by the same law. If, therefore, our particular circumstances did necessarily require a dispensation, in that singular case, to have a bishop in and for England,

without a see, why not, for the same reasons, a chapter too? The first was absolutely granted by the express terms of the brief, and the second must as necessarily and naturally spring from it.

But, secondly, as our bishops were not directed to any particular cathedral see, but [were established] for the right and use of all the missionaries, which cannot be restrained to any particular place or residence, just so does our chapter succeed to their jurisdiction; and so, it is not *capitulum cathedrale*, sed *jure et causâ missionariorum erectum*, as the canonists then defined it.

Thirdly, that canon manifestly speaks of chapters erected in Catholic countries, where the religion is established by law, and exercised in peace and tranquillity; but cannot be understood of a country under persecution, or infected either with heresy or infidelity, where the external exercise is impossible and impracticable. Let the objectors find out where any of the apostles, or the bishops of Rome, for so many ages under persecution, had ever their cathedral or metropolitical sees, or chapters with public endowments of extrinsical and accidental ornaments, as a material church, choir, revenues, &c.; and yet I dare swear the apostles and bishops of Rome had ordinary jurisdiction, and chapters of the same authority. These gentlemen, then, may please to reflect that bishops and chapters were before the canons, and enacted them, as conveniences and emergencies gave them opportunity; and, therefore, those canons must not be supposed to be able to abrogate their natural and essential rights, much less in cases of extraordinary concern. Wherefore,

to satisfy such nice speculators, I will solve the difficulty by this one distinction,—*nullum capitulum sine sede, materialiter consideratû, nego; formaliter, concedo*: that is, there can be no bishop or chapter without material stones, edifices, established riches, choirs, and revenues, *nego*; there cannot be a bishop or chapter without subjects to govern and preside over, a flock to feed, &c., which are the *spiritualia et viva corporis Christi membra*, or *ecclesia Christi*, *concedo*;—the first of which, indeed, we neither had nor have as yet; the second we enjoy to our comfort, and hope, in God's own time, to obtain the rest. And now, by the bye, the reader may be satisfied here that the title "*Chalcedonensis*" was only *pro formâ*, but the *res ipsa* was *Anglorum Episcopus* (as we read in that learned book, entitled *Geographia Sacra*,\* of an "*Episcopus Britannicæ*," in ancient times, here in England); because a bishop and his flock are correlates, and must refer one to another: and yet, in Chalcedon there was neither a material nor formal see, neither external church nor Christian flock over which to preside; and therefore, to retort the argument of *nullus episcopus sine sede*, and answer *ad hominem*, Bishop William, or Richard, could not be *their*, but *our*, ordinary.†

\* It was written by Samuel Bochart, a learned French Protestant, who was born at Rouen in 1599, and died suddenly, at Caen, in 1667. Of his works, more than one have been lost. Those which still survive, including the *Geographia Sacra*, were collected and published at Leyden, in 1692—1707, and again in 1712, in three volumes, folio. His life has been written by Etienne Morin, who, I believe, succeeded him as minister to the Protestant congregation at Caen.

† In addition to what the author has said in reply to this first

A second objection is, that the bishops were *delegati et ad beneplacitum*: but to this frivolous scruple we have already given an ample and satisfactory reply; and, to avoid an unnecessary repetition, we refer you to it.\*

objection, it should be remarked that much uncertainty, or rather misapprehension, exists as to the meaning of the word "*sedes*." Because bishops generally take their titles from cities, or other principal towns, in the districts over which they preside, there are persons who imagine that such places are the necessary episcopal "*sedes*;" that the distinctive appellations derived from them are essential to the existence of ordinary jurisdiction; and that, to extend the "*sedes*" to a whole country,—or, in other words, to appoint a person bishop of a whole people,—were an anomaly in the laws and practice of the Christian Church. To say nothing, however, of the "*Episcopus Anglorum*," mentioned in the text, or of the fact that St. Augustin was consecrated "*archbishop of the English nation*" (Bede, lib. i. cap. 27), these persons must surely have forgotten that St. Paul created Titus bishop of Crete, with all its hundred cities; and that, for many ages, the immense tracts of Scythia acknowledged the superintendence but of one episcopal superior: ἀμέλει Σκύθαι πολλαὶ πόλεις ὄντες ἔνα πάντες ἐπίσκοπον ἔχουσιν.—Sozomen, lib. vii. cap. 19.

\* If the reader will turn to page 45, note, *ante*, he will find that the reply to which the author here refers is so far inaccurate, as that it claims the *title*, as well as the jurisdiction, of ordinary for Dr. Bishop and his successor. To the validity of the present argument, however, as is there observed, this is of no consequence. It is in virtue of his authority, not of his title,—of his power, not of the tenure of that power,—that each bishop is enabled to erect a chapter in his own diocese. The mode in which the authority is communicated, or the term for which it may happen to be held, can never deprive it of its efficacy, or alter its essential properties. Ordinary jurisdiction, as such, must be still the same, whether in the hands of the delegate or of the principal; and if, therefore, Dr. Bishop and Dr. Smith were

A third objection is taken out of the words of Bishop William's letters patent for the erection of the chapter, viz.:—"Servatâ tamen in hoc uti in ceteris omnibus, debitâ erga sedem apostolicam reverentiâ, atque observantiâ, cui propterea supplicandum duximus, ut *quidquid potestati nostræ in hâc parte deesse poterit, id summi pontificis suffragio, ex potestatis suæ plenitudine, suppleatur*:"—but this supply never came, therefore the chapter is invalid.

Answer:—It is evident from that very patent that these words, "*servatâ debitâ reverentiâ*," were solely and purely meant, as their usual and natural signification and acceptation testify, to demonstrate his respect and regard to that see; and not that he entreated any authority to be superadded, as though his own was not sufficiently valid. Nay, the contrary is most certain: because he immediately proceeds, notwithstanding those expressions, to the institution and confirmation of the chapter, by his own sole power, with an "*Itaque ad Dei omnipotentis gloriam*," &c., which expressions and form he would not have presumed to make use of had he doubted of his own sufficiency.

The latter part of the objection is only conditional, *et, nisi purificatâ conditione, nihil sequitur*. But if any advantage may be reaped thence, it must accrue and redound to the chapter: for, since that sentence, only conditionally, and *per impossibile*, as it were,

really invested "with all and each of the faculties which ordinaries enjoy in their own dioceses," it is clear that they possessed that same right of creating a chapter, which every bishop in Christendom claims, as the necessary appurtenance of his office.

supposes that, if any requisite was truly deficient in that erection, then his holiness would supply it; and [since] the erection of the chapter was so frequently made known to the pope and that court, and yet no alteration or supply came thence, it is an invincible argument that it was the opinion of that court, and of his holiness too, that it required neither one nor the other, but was canonical and valid of itself;—unless we can suppose that that court would willingly and knowingly let such an intolerable abuse (such as it must needs be, to erect a chapter with ordinary jurisdiction, without sufficient authority for it) go on uncorrected, and proceed in the exercise of this power for so many years as uncanonical and invalid, without the least admonition to recall them from so dangerous and damnable a state. Such wild suppositions as these, indeed, if they might be granted, would cast a great blemish on the vigilance of that supreme pastor, and bring Christianity itself into a doubt. Add to this, that Mr. Rant, the chapter's agent, presented his holiness, in 1624, with a supplication, in the name of the chapter (subscribed thus,—“*Joannes Colletonus, decanus constitutus, nomine totius capituli, &c. :—Paulus Cluertonus, secretarius decani et capituli, &c.*”), for a bishop; and the pope, upon audience, assured him that he had thought on it already, and that he would advise with the cardinals of the Holy Office about it—inquiring whether the clergy had agreed upon any one in particular for that office? The answer was, that they had nominated nine (showing him their names), and left the choice to his holiness. Can there be required a more ample proof of a chapter's validity, or the



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pope's acceptation and acknowledgment, than this? —But more of these authorities by-and-by.\*

Objection the fourth:—The Benedictine monks obtained a decree from the cardinals to this effect—*“non confirmetur capitulum.”*

Answer:—Hence we prove our chapter to be canonical and valid: for that very decree supposes and styles it a chapter, without any diminutive or lessening terms, as *prætensum*, or *falsò suppositum*. [In the] next [place], that court did, in this, most wisely, in wording that decree so, knowing very well that, by all the canons of God's Church, neither *erectio* nor *confirmatio capitulorum* does belong to that see, and that ordinary jurisdictions, as chapters are, being established *jure divino, ex institutione Christi*, need not any confirmation *jure humano et positivo*: and therefore it acted very prudently in not assuming that authority of confirming it any more than invalidating it, but leaving it as it was: for it is the constant opinion of all canonists, that *“quilibet episcopus potest erigere capitulum, eo ipso quòd est episcopus,”* and that *“capitulum nunquam moritur.”*

The last objection is, that though the chapter might either subsist whilst there was only one bishop, or, *sede vacante*, be valid, yet it cannot be so now, here being four bishops, with their respective districts.

\* In this reply, the author has contented himself with destroying the argument of his adversaries on their own ground. The objection, however, is founded, in effect, on a misinterpretation of Dr. Bishop's charter, and the real answer to it has already been supplied in a preceding note.—See page 45, *ante*.



Answer:—The instruments which erected it, under Bishop William, and confirmed it, under Bishop Richard, ordered its continuance, “donec, pluribus in Angliâ episcopis Catholicis constitutis, plura capitula in eodem regno erigantur:” \* till, therefore, those bishops do erect their respective chapters, it must remain valid, and in its full force and power: [but] when [these are] once erected, it will, *ipso facto*, be annulled.† And therefore, these bishops being *legati apostolici*, and so revocable, the preservation of our church obligeth us to keep up this ordinary jurisdiction, lest, at their death or revocation, we should have no longer continuation of them, and then all ordinary jurisdiction would be lost.

Having answered the objections, I must proceed to show the uncontrollable validity and strength of the chapter, from these three considerations—first, public legations, and instruments exhibited to the court of Rome and accepted of by it; secondly, approbations and testimonies of its authority; thirdly, intrinsical exercise, in moments of great concern, of episcopal ordinary jurisdiction, *sciente et tacente Romanâ curiâ*: ‡ and this I will prosecute, by way

\* This is not quite correct. The limitation here cited occurs in Dr. Smith’s confirmation patent, but not in the original instrument of foundation, under Dr. Bishop.

† That is, supposing the present vicars to have the power of erecting such chapters,—a subject which will be mentioned hereafter.

‡ It has now been distinctly shown, that Dr. Bishop and his successor were commissioned to exercise the full authority of ordinaries; that, acting on that commission, the former erected, the latter confirmed, the chapter; and that whatever objections

of historical matters of fact, from its first erection to these our times, which will highly strengthen the prescription of that it lays so just a claim to, and be a more facile and intelligent method to let the reader into a more perfect insight of the true state of affairs, as well as to clear all manner of surmises or contrary suggestions which, possibly, prejudice might have caused in him against the equity of our pretensions. To begin, then, upon the vacancy of the see by the death of Bishop William.

In the year 1624, the dean and chapter ordered their agent, in their name, to solicit for a successor, and in the interim, *sede vacante*, exercised ordinary jurisdiction.\*

In the year 1635, Mr. Edward Bennet was elected dean, in the room of Mr. Colleton, deceased: and in 1637 Dr. Champney was promoted to the same dignity, vacant by the death of his predecessor. Each of these writ to the pope and cardinals, subscribing [himself] "*Decanus Capituli Anglicani*," and did, *sede non vacante*, as well as *vacante*, vindicate their just right and claim.†

have been raised against the jurisdiction, thus created, were founded in error, and are, consequently, incapable of support. In the sequel of the author's argument, it will be seen, first, that the chapter, as a body, was recognised by the Roman court; secondly, that the validity of its powers was acknowledged and approved by the sovereign pontiff; and thirdly, that it continued, under the eye of Rome, and during a space of thirty years, in the constant exercise of its ordinary jurisdiction, without once receiving an intimation from its superiors that it was acting improperly.

\* The agent was Rant, see p. 50, *ante*.

† The date of Champney's death is not known; but, from his

*In**March 18<sup>th</sup>*

~~About~~ the year 1655 <sup>March 18<sup>th</sup></sup> Bishop Richard deceased, and the same episcopal jurisdiction again devolved on the chapter, Innocent X. being then alive; to whom Mr. Fitton, the chapter's agent, having given an account of the bishop's decease, and desired to know his pleasure concerning the state and government of the Catholic Church in England, his holiness replied, "I will not disapprove of your chapter, but will let you alone with your government." \*

*The Dean Chapter*

In the same year the chapter despatched Mr. Plantin, a new agent, for Rome, to Alexander VII., who succeeded Innocent, to supplicate for a successor to Bishop Richard. He promised us a bishop within seven months, and [said] that in the interim we should govern by our chapter. His words are these:—"Numquid non habetis capitulum, decanum, vel subdecanum, ad regendam ecclesiam?" †

age—he was in his seventy-fifth year in 1643 (Dodd, iii. 82, orig. edn.)—it is probable that he died before Dr. Smith. In that case, the see could not have been vacant during the dealership either of Bennet or of Champney; and the author's meaning, therefore, must be, that they asserted the rights of the chapter, *sede non vacante*, in the same manner as they would have done *sede vacante*.

*It is certain he died before Bishop was Dean was appointed by the British Dean Fitton*

\* This passage is thus cited in the Encyclical Epistle of the dean and chapter already referred to:—"We show him (Dr. Leyburne), under Mr. Fitton's own hand, that it was the sense of Pope Innocentius, returned to him by Cardinal Capponi, our comprotector, that *we should govern by a dean and chapter till we had a bishop, that he would leave us to govern ourselves, that he would not disapprove what he did, but let us alone, to agree upon what we ourselves thought fit.*"—(24, 25.) Fitton's letter is, probably, still in the archives of the chapter.

† On these words, as well as on those recited in the preceding note, it need only be remarked, that they contain a distinct acknowledgment of the chapter's jurisdiction; and that, what-

A letter also, the ensuing year (1656), was writ to the congregation *de Propagandâ Fide*, in the chapter's name, to consult what must be done with those regulars who remained here against the command of their superiors, or entered in with illegitimate faculties; as also a letter of thanks to his holiness, for his paternal care in promising to supply us with an ordinary successor: and the same year Cardinal Capponi sent a letter, directed to the "*subdean of the chapter of the English clergy*." A patent was granted by the chapter then, for Dr. Godden to be president of Lisbon College; and a dispensation for two persons of quality to be married in the second degree. Read also a letter of Dr. Leyburne's (the professed enemy of the chapter), found amongst his papers, containing these words:—"That my lord (Bishop Smith) declared that the chapter was not to exercise episcopal jurisdiction whilst he lived, which is according to the common practice of the Church, whose sacred canons do confer the bishop's jurisdiction upon the chapter only after his death,"—that the said chapter of England "is to be looked on as his heir apparent, and lawful successor, where authority is to reside after his death."—Again, "seeing our government is to reside in the chapter after our master's decease."\*

ever cavils might hitherto have been raised on the want of the pope's formal approbation, must henceforth and for ever be abandoned. Nor is this all. In thus acknowledging the chapter, both Innocent and Alexander acknowledged it *as it stood*, invested with all the privileges conferred on it by the founders,—whereof the nomination and election of the bishops was not the least important.

\* See also Encyclical Epist. *ut sup.* 27.

The succeeding year, 1657, the nuncio at Paris had commission to be our ordinary *in secundâ instantiâ*, which necessarily supposes the chapter's ordinary jurisdiction *in primâ instantiâ* ;\* and the chapter, in a general assembly, nominated six persons for a bishop, and constituted Mr. Pendrick their agent at Rome.

[It was] ordered, in a succeeding consult, 1658, that Mr. Pendrick forthwith wait upon his holiness, and supplicate him, in their names, to make good his promise. (Letters likewise were sent to the Cardinals Barberini and Baigné, to the same effect. A dispensation was granted then, in a case of matrimony ; and recommendatory letters [were drawn up] for Mr. Michael Tichbourn to the bishops of the Canaries.) The instructions sent to Mr. Pendrick were these :—First, to desire a bishop *cum potestate ordinarii* ; secondly, that we dare not accept of any authority but what is conformable to the ancient laws in Catholic times, and which would be no offence to the government ; thirdly, that he be one of the six the chapter hath named ; fourthly, if any other person or authority, contrary or inconsistent with this, be endeavoured to be imposed, that he *resolutely oppose it*, and disclaim against it, in the chapter's name : 1°, because the ancient laws of England admit of no extraordinary power of the pope ; 2°, because there is a severe penalty, called a *præmunire*, against those that shall receive any such ; 3°, that in King Henry VIII.'s time, the clergy, by reason of this, were compelled to quit the pope's authority ; 4°, that all the laity will fall under the

\* Concil. Trid. sess. 24, cap. 20.

same *præmunire* also; 5°, that the chapter think themselves bound, in conscience, to acquaint the laity of the danger they are in by accepting of such an authority;\* 6°, that the state is already too jealous of any intrenchment from the arbitrary power of the court of Rome: and therefore they dare not accept of any superior but an ordinary bishop.†

A dispensation was granted in a simple vow of chastity; faculties were allowed to one Mr. Trafford; and letters were sent to his holiness, the nuncio, and several other cardinals, which, because they were on the behalf of the whole clergy, were ordered for the future to be subscribed after this form:—"Ex mandato Decani et Capituli Ecclesiæ Anglicanæ, N. N. Secretarius."—Note, that this form of subscription was ordered in the year 1658-9; and nineteen instructions, much to the same purpose above men-

\* This they did, in October, 1660, by means of the Encyclical Epistle already mentioned. See, in particular, pp. 35 *et seq.*

† The immediate occasion of transmitting these instructions to Pendrick seems to have been a letter written by Dr. Leyburne to Rome, wherein he had said, that "the greater part of the clergy in England were well satisfied, and would think themselves happy, in having a vicarius apostolicus," and that "only some few of the chapter opposed it."—Encycl. Epist. 35. From a letter published in Mr. Tierney's History of Arundel (ii. 524), it appears that the same Dr. Leyburne also represented himself to the pope as the agent of the English Catholics, when, in reality, he had received neither commission nor communication from them. After this, his assertions that the chapter had formed "a design to deprive Dr. Smith of his episcopal authority," and compel him to quit the country, may be readily estimated.—Encyclical Answer, 42; Epist. Declarat. 23.

tioned, [were] sent up by [the hands of] our agent, Dr. Gage; as likewise a letter to the nuncio at Paris, to assure him that only episcopal authority is safe, grateful, and necessary for us, and all extraordinary [authority] dangerous to the welfare of all the laity; so that we shall be obliged to inform them of it if any such jurisdiction is imposed upon us.

Ordered, in the year 1658-9, that Dr. Gage declare against all extraordinary authority, as inconsistent with our safety, if offered to be imposed; and that he absolutely move for an ordinary authority, as was promised us.

In the year 1660,\* Dr. Ellis, alias Waring, having

\* This, in the old edition, is 1664, which, though carelessly copied by Dodd, is evidently a misprint. Of the dates immediately preceding and following it, in the text, the reader will see that the former is 1659, the latter 1661,—a sufficient proof, even of itself, that our author, who invariably adheres to the chronological order of events, must have written 1660. But this is not all. Dodd, referring to this passage for his authority, and at the same time perverting it, says, not that Ellis was *sworn*, but that he was “*chosen* dean of the chapter, October 14, 1664”—(iii. 295, orig. edn.) Now it is certain that Ellis’s election took place at the general assembly, held in November, 1657; that he was informed of the event by a letter from the chapter, addressed to him in the country, where he was living; and that, in his reply, he stipulated, as the condition on which he would consent to receive the proffered dignity, that he should be allowed sufficient time to arrange certain matters of importance before he removed his residence to London.—Encycl. Epist. 13, 15, 16; Letter from Hoburgh to Card. Barberini, in Plowden’s Remarks on Panzani, Append. x. p. 374. This condition was granted. His affairs appear to have occupied him rather more than two years; and thus, although in the mean time he acted in the capacity, and was acknowledged in the character, of dean (see a letter from the nuncio, dated Sept 28, 1660, and

settled his affairs in the country, came up to London to reside, and preside over his brethren; and on October the 14th, to the universal joy of his brethren, was sworn dean of the chapter.

1 See  
Validity  
Page 114.  
In the year 1660-1, June the 26th,\* Mr. Richard Russell (afterwards bishop of Portalegre, in Portugal) was made canon of the chapter, whose brief, from Clement X., for his creation [as bishop], authentically owns the present chapter; for it styles that bishop elect "*capituli Catholici in civitate Londinensi canonicum*," and afterwards declares, "*per provisionem et profectionem hujusmodi, canonicatum et præbendam, quas obtines, vacare decernimus*,"—which is nothing less than an acknowledgment of our chapter by the see apostolic. This brief was dated July 1, 1671, which was a complete year after the congregation was held, for its (the chapter's) confirmation or non-confirmation, and is a convincing argument that the apostolic see did that *then* which *before* the congregation had demurred to do.†

About this time, our agent, Dr. Gage, gave us an account how that his holiness Alexander VII. was

cited by the author, p. 87, *post*), yet it was not until the 14th of October, 1660, that he took the oath attached to his new office. Six days later, we have his signature as dean, together with those of the author and seven other canons, or their deputies, affixed to the Eneyelical Epistle referred to in the present and some preceding notes. Ellis, whose real name was Waring, succeeded Dr. Daniel, who died in September, 1657.—Hoburgh's Letter, *ut sup.* pp. 369, 374.

See note  
It is  
26. 1661.  
\* There seems to be an error in this date; either the year should be 1661, or the month should be January; probably the latter.

† See page 97, *post*.



very much inclined to favour us, and give us a bishop; but [that] the main difficulty was to bring the cardinals over to our side, who, influenced by one man, stomached at the authority of the chapter; for at that time Cardinal Albechi was chief of that congregation, appointed to inspect our affairs, a great favourer and admirer of the jesuitical party, and the only person in all Rome that ever was known to speak or act anything in the least against our chapter.

There passed several letters and relations to us, the sum of all which amounted to no more than that he acknowledged himself to be deluded and imposed upon by them. For, while the archbishop of Rouen promised to give us bishops, as the Council of Sardica directed him, if the first see refused it, the court of Rome, fearing the example of such an eneroachment on their sole (as they imagined) prerogative, caressed and cajoled the agent, with fair promises, and dilatory kind expressions, lest we should desist our solicitation there, and supplicate that archbishop: but, in the mean time, having provided against that unexpected storm by the means of potent friends, and engaged that prelate to desist from such an enterprise, they then pulled off the vizard, and treated him with the same coldness as before; which strange alteration gave the doctor an occasion of changing his sentiment as to the manner of managing that court.

For whereas before this he was very positive that the only way to obtain any favour thence was by submissive fawnings, humble addresses, acknowledgments of great favours, and no pretensions of right

or equity, yet now he tells us his opinion is, that “they would, if they could, abolish all authority but what depended immediately upon them; and this they will do when there is not a power able to dispute their right with them.”—It is not to be denied but that this agent, in several particulars, went beyond his commission; and was once almost prevailed on to accept of a vicar apostolic, by means and persuasions of his great friend, Mr. J. L., there resident.\* But this design was defeated by the industry and vigilance of Mr. J. Holland, the then secretary, in having him recalled home: yet, before his return, he gave us this certificate, viz.—“*In the interim, make no doubt of the chapter’s authority; for it is most apparent that this court allows of it.*”—Orders [were] sent also to him that the bishop have the title of archbishop, if it can be, and that he be sure to be entitled “*Ordinarius Angliæ*,” and his mission significantly addressed to England; that, if the nuncio has any orders to impose any extraordinary authority upon us, he declare against it, as inconsistent with our safety. Ordered, likewise, to disclaim the memorial without date, pretended to have been presented by Dr. Gage, our agent; that, if he presented any such, it was expressly against his orders and knowledge, since, being a capitular, he could not be ignorant that the chapter exercised ordinary episcopal jurisdiction, and was obeyed as [possessed of] such.†

\* Probably Dr. John Leyburne, afterwards vicar apostolic.

† Hoburgh, without even attempting to assign a reason for the charge, roundly declares that the opposition of the canons, on this occasion, to the appointment of a vicar apostolic, was a mere

Much about this time, the dean and chapter received several letters from the nuncio at Paris and internuncio at Brussels, in which they promise to supplicate his holiness for a bishop for them. The first was from the nuncio, April 12, 1659; and the second, the May following, from him also, superscribed—" *Admodum Reverendis Dominis, Decano et Canonicis capituli cleri Anglicani.*" A third was sent from the said nuncio, September 28, 1660, directed—" *Domino Onuphrio Ellicco, Decano capituli Anglicani;*" \* and [another] December 18,—"*Capitulo et Clero Anglicano.*" One also [was written] from the internuncio, November 26, 1660, in which he apologizeth for not using that style:—" *Singulari animi voluptate perlegi literas à dominationibus vestris quinto præteriti datas, signanterque quod in ipso limine significant, se, scilicet, non ægrè tulisse omissionem titulorum decani et capituli in præcedentibus meis, quam supponent nullâ sinistrâ intentione admissam; in quo reverà minimè errapretence; that they asked for a bishop, only because they hoped for a refusal; and that their real object was to prolong the existence of their own power over the clergy.*—Letter to Cardinal Barberini, apud Plowden, Append. x. pp. 375, 376. For those who recollect the unceasing applications and importunate entreaties of the chapter for an episcopal superior, this will need no refutation. At the same time, it will be well to compare this letter of Hoburgh's with the Encyclical Epistle of the dean and chapter already cited. Hoburgh is said to have been employed on the English mission; but, beyond this, nothing appears to be known of him.

\* Amongst other expressions contained in the body of this letter, it should be remarked that the nuncio uses these emphatic words: " *Supremus enim ac universalis pastor capitulum istud, tanquam filios charissimos, diligit.*"—Encycl. Epist. 27.

runt, uti Domino Quintino, confratri vestro, ore tenus exposui. Absit ut aliquod dominationibus vestris decus detrahere cupiam, qui potiùs nova accumulare averem." And, conformably, December 24, 1660, he directed one thus :—"Admodum Reverendo Domino, Domino Joanni Hollando, Secretario capituli Londinensis;" and in the letter itself expressed himself in these signal terms :—"Vos auctoritatem episcopalem, et onus pastorale sustinetis in Angliâ."

In the year 1661 a general assembly was held; and, for fear the government should take notice of their meeting, my Lord Aubigni was entreated by Mr. Holland, the secretary, to acquaint his majesty of it; and [to assure him] that their intention was only to settle some concerns belonging to their private affairs, and their obtaining a bishop for their government; and that they would choose none but such a man as should be well-principled, and his loyal and faithful subject.\* His majesty was pleased to consent to their meeting, sending this gracious answer, that he "commanded them not to meddle with, or accept of, any extraordinary authority from Rome. As for the late laws, made since the Reformation against them, he would protect them from *them*; but could not do it in respect of the ancient laws, provided in Catholic times against such an autho-

\* Yet Hoburgh assures Cardinal Barberini, that the object of this meeting, thus publicly notified even to the government, was studiously kept secret:—"Quid porrò nuperrimè capitulares egerint in conventu suo, hoc anno, duobus abhinc mensibus, Londini habito, *cautum ab ipsis esse aiunt, ne palam fiat.*"—Apud Plowden, 378.

riety." Whereupon, a decree passed in this general assembly, *never to accept of any such authority.*—September 30, common letters were sent to the pope and Cardinal Barberini, which conclude thus: "Nihil de episcopo impræsentiarum movemus; sed prudentissimam sanctitatis suæ bonitatem, atque optimi regis favorem humiliter expectamus; cui interim quàm gratum sit capituli nostri regimen, vel ab eminentissimo Cardinale Azzolini, vel ampliùs ab illustrissimo domino de Aubigni, cui regis nostri intentiones unicè perspectæ sunt, intelligi poterit."

April 22, 1662, the Lord Aubigni desired faculties, by the authority of the dean and chapter, as ample as could be granted, concerning marrying Catholics with heterodox [persons], in order to the joining in matrimony of his majesty King Charles II. with Catharine, infanta of Portugal—which were granted in this form:—"Has suprascriptas facultates, in Angliâ, Scotiâ, Monâ, et aliis insulis ad Magnam Britanniam pertinentibus, exercendas, illustrissimo domino, Domino Ludovico Stuarto d'Aubigni, capituli Anglicani nomine, more quo possum amplissimo, concedo. In cujus rei testimonium, nomen meum subscripsi, præsentemque concessionem capituli sigillo muniri feci, 23<sup>o</sup> die Aprilis, anno salutis 1662.—*Onuphrius Elliceus, capituli Anglicani decanus.*"

I would fain see now that person who durst deny the validity either of the chapter or of these faculties granted. Let him, if he please, for confirmation of his opinion, take a voyage to Lisbon, and tell the queen-dowager there that she was never married to any *in facie Ecclesiæ*. What entertainment he may

meet with there I must leave to the reader's conjecture; and, in the interim, can assure him, that had God blessed that marriage with royal issue, such an audacious and calumniating attempt as this had been no less than high treason against the crown, and, for its expiation, would have seen [its author] drawn upon a hurdle, and his writings committed to the flames by the hands of the common hangman, as a just, though insufficient, atonement for so high an affront and injurious aspersion, offered to the memory and honour of their sacred majesties.

The Lord Aubigni likewise had desired, at his first coming, leave of the dean to say mass, which was granted: and he married the king and queen at Portsmouth. The instruments or testimonials of their marriage were drawn up, and five copies of them writ by our secretary, then present, [and] in each of them [it] was expressed, that this was performed by virtue of faculties derived from our chapter. These testimonials, I say, were then and there signed and sealed by all personages interested; and his grace the archbishop of Canterbury only declared afterwards, as they were set at dinner, that they were lawfully and duly married, the queen's conscience not allowing him any further intermeddling in that business.\*

\* Though not connected with the immediate object of the present work, it may, perhaps, be worth while to remark, that this account completely establishes the correctness of Burnet's narrative, which has sometimes been disputed. As an additional confirmation, take the following passage, in the words of the duke of York, afterwards James II., who was present on the occasion:—"After she (the queen) had reposed for some little time, their majesties were married by my Lord Aubigny, almoner

In this year (1665), the consult ordered [a letter] to [be] writ to his holiness, [stating] that the chapter could not accept of an apostolic vicar, and supplicating him not to impose it; first, because the example of the archpriest startled them; secondly, because they are under a settled authority, and unanimously agreed in it; thirdly, because there have been multitudes of contracts between the chapter and its officers over all England, which, should they not stand to the chapter, would fall to the ground, to the great scandal and injury of Catholics; fourthly, because the state hath ordered them not to accept of a vicar apostolic; fifthly, because the chapter has continued forty years, &c. — July the 5th, the same year, a letter from the nuncio at Paris, came directed, “*Decano et Capitulo Ecclesiæ Anglicanæ.*”

After this, one Mr. Gildon was suspended by the chapter, and orders [were] given to the vicars-general and archdeacons of those districts to publish the suspension: and [at the same time] the oath to be taken by all the capitulars [was] received, which, till then, had been the same framed in Bishop Richard Smith’s time. The form [was]—“Ego, A. B., presbyter, in capitulum ecclesiæ Anglicanæ assumendus, juro ac promitto, quòd ab hâc horâ to the queen; but so privately (not to offend the Protestants) that none were present, but some few Portugaises, as witnesses. Soon after this, the king and queen coming forth into the great room, where all the company was, and being seated in two chaires, Dr. Sheldon, then bishop of London (but afterwards archbishop of Canterbury), performed the outward ceremony in publick, of declaring them to be man and wife.”—Life of James II., from his own MS. Memoirs, i. 394.

fidelis et obediens ero venerabili decano et capitulo dicto, ejusque auctoritatem," &c., as it is found in the chapter oath.\* But the oath, to be administered to all priests that come into England, [was ordered] to be amended after this tenor:—"Ego, A. B., presbyter, spondeo ac juro veram ac canonicam obedientiam ac fidelitatem venerabili decano ac capitulo ecclesiæ Anglicanæ, sede vacante: itemque profiteor me esse sincerum membrum cleri sæcularis Anglicani, nihilque in ejus præjudicium, directè vel indirectè, machinaturum: præterea me nulli religioso ordini, aut societati, adscriptum esse, aut etiàm adscribi velle, nisi priùs hanc meam voluntatem venerabili decano significavero: sic me Deus adjuvet," &c.†

Ordered, to move for an absolute ordinary, and

\* The following is a somewhat larger fragment of this important oath as it stands, I am informed, at present:—"Ego, A. B., presbyter, in capitulum ecclesiæ Anglicanæ assumendus, juro ac promitto veram et canonicam obedientiam venerabili decano et capitulo dicto.....ejusque auctoritati parere;.....*jura et privilegia tueri*; statuta et decreta pro virili custodire; bonum illius, tam temporale quàm *spirituale*, fideliter procurare; *nec aliquid unquam, directè vel indirectè, in ejus præjudicium machinari.*"

† Hoburgh tells us that this oath was first drawn up in the general assembly held in 1648; that its adoption was opposed by Dr. Leyburne; and that it was finally rejected by a majority of votes. Yet, in the next sentence but one, he represents Dr. Smith as threatening to suspend the members of the chapter if they *continued to administer* this very oath, which, according to him, they had just refused to sanction; and, with equal probability, goes on to declare, in imitation of Dr. Leyburne, that the object of the canons was to overthrow the jurisdiction of the bishop, and establish their own authority on its ruins.



that one of the five nominated be the person sent, viz., the dean Dr. Ellis, Mr. John Leyburne, Dr. Godden, Dr. Gage, [or] Mr. Robert Manly : and that common letters be writ to the pope, his nephew, several other cardinals, the assessors of the Holy Office, and the cardinal prefect of the Propaganda. The instructions to the agent were, as formerly, for an ordinary, and that he should resolutely oppose all other titles or authorities, as directly forbidden by the state, and against the constant sense of his brethren ; and [should declare] that the laity reclaimed against it, protesting that they durst not accept of any such authority, “et quòd acceptatio extraordinariæ autoritatis sit ruina cleri.”

Received, the same year, 1666, a letter from Signore Baldeschi, secretary of the *Propaganda*.

In the year 1669 we received several letters from the internuncio, as formerly ; and new orders [were] sent to move again for a bishop ; [adding that] in case my lord almoner (afterwards Cardinal Howard) should be offered us, his lordship should be accepted.

Ordered, in 1669, that a brief relation of our chapter's institution and confirmation, as it was drawn up by the secretary, and approved by the consult, be given to the lord almoner, to be sent to the internuncio ; and that a letter of thanks be writ to the nuncio at Paris, for the good esteem he hath for the chapter, &c. Another [was] sent, August 19th, to the internuncio at Brussels, subscribed—“*Onuphrius Elliceus, decanus, meo et capituli nomine ;*” as also another, September 20, with the same subscription.

January 26, 1669-70 ; \*—Ordered, [that] a congratulatory letter be writ to the pope and several cardinals ; as also directions to Mr. Holt, the agent, to move for a bishop, and accept of such a one as the last of Chalcedon was.

Ordered also, for the preservation of our just right of nomination, [that] the agent, Mr. Holt, be desired to nominate the honourable Philip Howard for bishop.—Faculties [were] given to an Irish priest for three months ; and letters [were] sent to the internuncio at Brussels, in vindication of the chapter's validity, to which an answer from the internuncio came directed to the dean, expressing much satisfaction in them to him, [and] promising all services.

Resolved, that under no pretence or palliation whatever the words "*vicarius apostolicus*" be admitted, as directly contrary to the king's command, offensive to the state, provided against by the laws of the realm, and extremely dangerous to Catholics ; that, supposing my Lord Howard should be the bishop, he must have ordinary jurisdiction ; that it is the right of the old English chapters to choose their bishop and chapter-men ; and that it is resolved not to yield either of these to the pretence of the court of Rome.—Mr. Holt acquainted the assembly that, having had audience of the pope, his holiness

\* There appears to be a mistake in this date, for Pope Alexander IX. died on the 9th of December, 1669, and his successor, of the same name, was not elected until the 29th of the following April. The letter was probably written in *June*, not "*Jan.*," as printed in the old edition ; and was intended to congratulate the new pontiff on his accession.

assured him that "he had great consolation in our clergy;" that his nephew, the cardinal, told him that his holiness was "infinitely satisfied with our English clergy;" [but] that Mr. Baldeschi acquainted him, that "the Jesuits reported that we desired not a bishop," &c. Yet, [he added that] a congregation was held, which [had] consented to give us a bishop; [that] my lord almoner was judged a fit person; but what his authority should be was not determined.

By these many informations, given in to the Roman court, concerning the state and authority of the capitular government, by its agents, Mr. Fitton, Mr. Plantin, Dr. Gage, Mr. Pendrick, and Mr. Holt, as well as by the private suggestions of its adversaries, who left nothing unanswered \* which could redound to its prejudice, it must be granted as undeniable, that that court stood not in need of a farther account of our state, but retained a good will to assist us. Nay, Mr. Baldeschi, an archbishop, and secretary to the Propaganda and the English congregation, having discussed the business at large of all the chapter's proceedings, with Mr. Holt, advised him to petition the said congregation for a confirmation of it: to which the agent made this reply,—that, should he put in such a memorial, yet it should be worded in these terms:—"ad majus robur, et ad tollendum infirmorum scrupulos;" for the chapter doubted not of its jurisdiction;—to which his eminency rejoined, that he might express himself in what terms he pleased. And the said cardinal opened to the said congregation, in two

\* Perhaps *unsaid*.

public meetings, before the pope, the power which the chapter made use of, namely, all the jurisdiction and authority which other chapters do exercise, *sede vacante*, viz.: 1°, the giving of faculties for administration of parochial sacraments; 2°, dispensations for marriages, [and] dimissories for the ordination of priests; 3°, all public orders, letters, and commissions are subscribed by them, &c. As also [he said that] public letters [were] sent in their name to the pope, to the congregation, and the officers of the Holy See: moreover, that the capitulars judged the confirmation of it not necessary, and, in case it were necessary, yet they looked upon themselves to have already obtained it, if not expressly *totidem verbis*, yet, at least, virtually.—Nay, which is more, the internuncio, being in London, and conferring in person with the capitulars, in the presence of the lord almoner, said, the chapter might be confirmed upon certain conditions, viz., that the court of Rome might have the nomination of some of the chapter officers; to which it was replied, that a condition of this nature might make them want such officers as long as they had wanted a bishop, and so [they should] have their government fail. Moreover, it was contrary to the institution of the chapter, and destructive to it, and *that*, by reason of the great distance from Rome, where, if true informations could not be had, persons perhaps might be imposed upon them who would prejudice both them and their government.

After this, October 28, 1670, a letter was directed to the internuncio, with those reasons of the chapter desired by him; and more at large than what was

discussed *facie ad faciem*. The title was, "*Rationes cleri contra quasdam innovationes intentatas, transmissæ ad internuncium Bruxellensem*,"—demonstrating their inherent right, from the canons and constitutions of the realm, to choose their own pastor; [stating] that since all regulars, though more dependent on the court of Rome than seculars possibly can be, have that privilege allowed them, to choose their own superior, it seemed partiality beyond example, and savouring of cruel unkindness, to deny the same to the clergy, who daily hazarded their lives for the propagation of [the] faith; and, lastly, demonstrating, by most cogent and irrefragable mediums, that such an election of their pastor was the chapter's due. Many other reasons were offered and inserted *home*,\* which my concise brevity compels me to pass by:—this was signed, "*Onuphrius Elliceus, capituli decanus, meo et capituli nomine*."†

November 8:—Faculties were allowed to an Irish priest to officiate in the Venetian chapel, and letters dimissory granted to two several persons; as also faculties granted to one Mr. White, for six months, and D. Jaspar Maria Crollanza, an Italian; but denied to two other Irish priests.

In a general assembly, it was resolved unanimously, first, that the name of *vicar apostolic* be not admitted, as endangering the whole government; secondly, that no new bishop has power to dissolve the chapter. About that time, 1674, several dimis-

\* Perhaps "*herein*."

† This letter, of which a copy must, of course, remain in the archives of the chapter, ought to be published.

sories and faculties were granted, and others continued on; and a dispensation for a marriage *in secundo gradu affinitatis*;—and the next year following a letter of thanks was sent to his holiness Clement X., for the promotion of Cardinal Howard, subscribed, “*Onuphrius Elliceus, decanus capituli ecclesiæ Anglicanæ, sede vacante.*”

September 18, 1676, the venerable dean being deceased on August the 9th, Dr. John Perrot was elected and declared dean, to succeed in his place, to which [declaration] all subscribe their names.\* —In the year 1681-2 a dispensation for marriage was granted between two cousins-german: and in 1684, in a general assembly, it was resolved, that the northern Catholics, on the other side of the Trent, may take the same liberty of eating eggs on Fridays as is exercised in other parts of England; which dispensation is to be extended to those on the other side of [the] Ribble.—Several letters were sent to Cardinal Howard, to obtain for us an ordinary; and the names of the persons were, by the chapter, sent up to him: and [it was] resolved that it is unlawful for Catholics, first married by a priest, to be remarried by a parson, or to take a certificate from him that they were married by him.

A dispensation was granted to marry a cousin-german in the year 1684. The next ensuing year the consult was informed that Mr. John Leyburne was coming from Rome, with the authority of vicar apostolic, and that this imposition was laid upon us *in scio et invito toto clero*, and contrary to all canons.

\* Perrot's real name was Barnesley. See an account of him in the Catholic Magazine for March, 1835, p. 103.

Therefore it was ordered that a memorial should be presented to the king, to show him the convenience of an ordinary, and the inconveniency of any other authority; which was accordingly done by Dr. John Perrot, the dean, who also represented to his majesty how suitable the government of an ordinary was to the kingdom and its circumstances, and how unsuitable that of a vicar apostolic;—which memorial and petition his majesty received most graciously, and affirmed that he would admit of no other [than an ordinary]; but withal desired yet a further explanation of the great difference between an ordinary and a vicar apostolic; though it afterwards happened that some other, more potent, favourites gained upon him to alter those resolutions, so advantageous to himself and the government. [The following is]\* an abstract of the copy of the memorial which was presented by the venerable dean and chapter to his majesty King James II., July 23, 1685,—showing the difference between an ordinary and one that is a vicar, in obedience to his majesty's commands.

“By a bishop who is an ordinary is meant one who  
“hath power of his own, or in himself, to govern  
“the flock over which he is set; and whilst he acts  
“accordingly, he is not responsible to any, or re-  
“vocable at pleasure.

“On the contrary, a vicar is one who hath no  
“power of his own, or in himself, but only the  
“use or exercise of the power of the person who

\* In the old edition, the memorial is inserted, without any connection, in a subsequent part of the work. I have thought it right to remove it to its present situation, for which it must certainly have been intended.

“substitutes him; so that what he doth he doth  
“not by his own power, but by the power of the  
“person whom he represents; to whom, therefore,  
“at all times he is accountable, as using purely *his*  
“power, by whom that power and himself too are  
“revocable at pleasure. Whence it follows that a  
“vicar need not be a bishop at all, but in certain  
“cases; and although he be consecrated, and so  
“have the title and character of a bishop, yet,  
“acting only in and by the power of another,  
“according to the order and instructions given by  
“him, he is not properly a *bishop* of the flock to  
“which he is sent, but *officer* or *delegate* of the  
“person who sends him.”

This difference being stated, they humbly craved leave to represent to his princely consideration :

“1°. That if an apostolic vicar be admitted, then  
“his majesty’s Catholic subjects will be governed,  
“in ecclesiastical matters, after a different manner  
“from all other Catholics in most parts of Christ-  
“endom, even in Italy itself; which will be apt to  
“breed in them jealousies of being involved in the  
“same inconveniences as they were by the power  
“given to the archpriest.

“2°. That this power, not being the vicar’s own,  
“but his in whose name he acts, may be taken from  
“him at pleasure, *etiam sine causâ*, and the Catholics  
“left without any superior, either ordinary or extra-  
“ordinary, to govern them.

“3°. That the vicar being obliged to act, not by  
“the known laws and rules of the Church, but by  
“special orders and injunctions from his delegant,  
“the government will be arbitrary and uncertain,—



“which must be of a pernicious consequence, as well  
“in ecclesiastical as in civil affairs.

“4°. That divers laws enacted by his Catholic  
“ancestors, in providing against the inconveniences  
“of foreign pretences of the court of Rome, viz.,  
“Ed. I., Ed. II., Ed. III., Rich. II., stand still in  
“force; and an ordinary bishop will be obliged to  
“espouse his majesty’s and kingdom’s interest, in  
“the due execution of the said laws, which a vicar  
“cannot be expected to do, but, if enjoined, [must]  
“act contrary to them.\*

\* This coincides exactly with Dr. Doyle’s opinion, expressed in his evidence before the committee of the House of Commons, in 1825. Having explained the difference between a vicar apostolic and an ordinary bishop, he is asked whether there is “any distinction between the power of a vicar apostolic and a Roman Catholic bishop, *as to the power of withholding the publication of any bull or rescript from the see of Rome?*” and his answer immediately is, “I should think there is a material difference, because the vicar apostolic depends, *as to the existence of his office*, upon the will of the see of Rome. He can be removed from it at the good pleasure of the pope; the faculties which he exercises can be restricted, or limited, or modified, just as the see of Rome may please. It is not so with us bishops. We cannot be removed: we have a title to our place: our rights are defined from the Gospel, and from the canon law,—defined as well as those of the pope himself. *We cannot be obliged to do anything by the mere goodwill or pleasure of the pope.*” (Evidence on the State of Ireland, p. 381, Murray’s edit.) In fact, the loyalty of the vicar might, and no doubt would, refuse to comply with any political injunctions emanating from the Roman see; but the loss of his appointment would, in all probability, be the consequence of his virtuous resolution. The insane and ignorant bigotry, so offensively displayed on the late establishment of the hierarchy in this kingdom, may here learn to blush, that, contrary to well-known history and common sense, it dared to charge the Catholics with disloyalty, or imagined the sove-

“5°. That one of the said orders (as appears by  
 “the extraordinary faculties given to the archpriest  
 “and some of the regulars) is, to keep up the title  
 “and claim to the church lands, by declaring to  
 “such as desire to be reconciled that they are truly  
 “the goods of the Church; and not to absolve them  
 “without a promise of standing to what the Church  
 “shall determine concerning their restitution, than  
 “which nothing can more alienate the minds of  
 “them from being reconciled;—and yet a vicar must  
 “be obliged, as well as the archpriest or regulars, to  
 “put this in practice, notwithstanding the dispensation  
 “given by Cardinal Pole for the retaining of them.\*

reign and the laws in danger from a measure of which the tendency was to corroborate, rather than to detract from constitutional security.

\* This has often been charged against the author, or rather against the chapter, as an unjust and unwarrantable imputation on the designs of the Roman court. That private instructions, however, in addition to his public faculties, were given to Blackwell, is known from the letter of Cardinal Cajetan himself (Dodd, iii. 119, ed. Tierney); and until those instructions are produced in contradiction, we have a right to believe the positive assertion of the chapter, as to their specific import. I subjoin a passage from the bull *Plantata*, published in 1634, which certainly seems to indicate something very similar to the design alluded to in the text:—“Denique concedimus et confirmamus prædictæ congregationi Anglicanæ (S. Benedicti) *jura omnia et singula*, omnemque titulum, quos vel quem antiqua congregatio Anglicana, vel monachi Angli ordinis S. Benedicti, olim habuerunt *ad monasteria Petroburgense, Glocestrense, et Cestrense*.....Et præterea concedimus et confirmamus hujusmodi congregationi Anglicanæ *omnia et singula jura, omnemque titulum aduersùm monasteria antiquæ congregationis Anglicanæ, sive ordinis S. Benedicti in Angliâ, quæ vel antiqua congregatio, vel ordo S. Benedicti in Angliâ antiquitus habebat,*

“6°. That the very name of a *vicar apostolic* will “raise in his majesty’s Protestant subjects an apprehension of the kingdom’s being subjected to the “immediate jurisdiction of a foreign court, against “whose pretensions, either ecclesiastical or civil, all “his Catholic ancestors thought themselves obliged “to stand upon their guard.”

To avoid these inconveniences, it was “humbly “offered to his princely consideration, to provide “that the bishop to be sent for be declared true and “proper ordinary of the Catholics in England, with “command to govern them as other ordinaries do.”

[In reply], his majesty was pleased to assure the venerable dean, Dr. Godden, and Dr. Gifford, who exhibited him the aforesaid reasons, that the said Mr. Leyburne should not be received in the character of vicar apostolic,—declaring further, that he knew nothing of it. Mr. Leyburne was then at Paris, and his majesty writ a letter to be informed of the truth of it, and to stop his arrival with that title; but a certain party prevailed with the king to receive him as such, and so we were compelled, by obedience to his majesty, to a non-opposition: for what could be done or proposed, with reason, as likely to have any probable success against the determination of the pope and the king?—so that a tacit silent acquiescence was our only refuge. Yet, June 24, a dispensation for marriage was granted, in the second degree of affinity.

*cum omnibus filiationibus et dependentiis suis; decernentes eadem monasteria non vacare, nec, uti vacantia, in titulum et commendam obtineri, vel impetrari, posse aut debere.*—Dodd, iii. 165, orig. edn.

John Leyburne, now entitled lord bishop of Adrumet, being arrived, certain capitulars were commissioned by the chapter to wait on him,\* with an address, to declare to us the name and nature of his jurisdiction as to the secular clergy, as also how he would carry himself in order to the chapter. His lordship's answer was, to the first query, that his title was *vicar apostolic*, and his power *extraordinary*; to the second, that he had no commission either to allow or deny the chapter, but that he would carry himself *abstractedly* towards it. As to his proceedings towards the clergy, he would use common authority, except in extraordinary occasions.†

\* Nov. 25, 1685.

† On the 6th of September, 1685, Leyburne took an oath at Rome, by which he declares that he does not, and never will, recognise the chapter as a legitimate body; that he will never acknowledge any spiritual power to reside in it; that he will never approve of any act which can either directly or indirectly tend to the allowance of its pretended spiritual jurisdiction; and that, in fine, he does and will condemn any exercise of such jurisdiction as null, void, and of no effect. On the following day, he received a letter of instructions from the Propaganda, in which, after mentioning the above oath, the cardinals tell him that, on going to England, it will be necessary for him “dare un' esatta informazione del esistenza di detto capitolo, delle qualità e genie di capitolari, per esaminare se *convenga* (*convegna*) di confermarlo, o di dichiararlo nullo, or pure se sia espediente d' erigere nuovo capitolo con quelle limitationi, che alla santità sua paresanno opportune, et comporre questi di tutti o parte di soggetti che costituiscono hoggi questo corpo che indebitamente s' intitola capitolo,” &c. And yet Rome had suffered the English church to remain without any other government than this chapter for thirty years. If the acts of this body were null, what were all the faculties granted by it during that long period?

Thus, from the year 1655 till the end of 1685 we have deduced a short series of the chapter's actual jurisdiction, *sede vacante*, that is, for full thirty years, uninterruptedly exercising, all that space of time, all episcopal jurisdiction over all England, by virtue of being a chapter erected by Bishop William, and confirmed by Bishop Richard; besides what it exercised in the vacancy of the see between the two said bishops, and this without the least control or exception from the apostolic see, authentically acquainted with all its proceedings. This is a strong prescription, sufficiently validating its authority, even upon supposition that there had been any flaw in its erection. Nay, Innocent XI., who sent over Bishop Leyburne, gave it, even then, this large and ample testimony of his liking and approving it, viz., that "*the chapter was of an ancient institution, and he would not have the power of it diminished.*" Bishop Leyburne, also, and the rest of the bishops, declared that they would leave it as they found it,—which was the meaning of Bishop Leyburne's saying, at first, that he would carry himself *abstractedly* towards it;—and to this corresponds that decree which, with a great deal of art and subtilty, was obtained from the Roman court by them, viz., "*ut jurisdictio omnium capitulorum, tam secularium, quam regularium, in Angliâ cessaret, quamdiù vicarii apostolici ibi manerent, et non aliàs.*"\* By which last words we have an

\* The decree, together with the letters on which it professes to be founded, is in Dodd, iii. 528, 529, orig. edn. If these letters were the only communications that passed upon the subject, it is certain that the charge of "art and subtilty," on the part of the vicars, must fall. They petitioned for the removal of

ample concession, that the capitular jurisdiction was valid before, that it is so at present, though our circumstances oblige us to suspend the exercise of it, and that it may even, according to them, re-assume its authority when those vicars are recalled,—which supposes it remains still.

I [have] thought fit to subjoin here the judgment of a most learned person, who, for his great knowledge, experience, and practice in the canon law, was esteemed the oracle of his age, and, as such, relied upon by the assembly of bishops in France, viz., Monsieur de Sainte Beuve, an ancient Sorbonne doctor,\* who, being consulted about this point, was

an acknowledged abuse,—the pretended capitular jurisdiction of the Benedictine clergy; and Rome replied, by suspending the authority both of the secular and regular chapters. From the conduct of the former, however, as the reader will have occasion to observe, there are strong grounds for believing that other letters were despatched, or other representations made, to the Roman court, and that its suspension was only the mitigated result of a design, long known and strenuously combated by the clergy, to effect its total dissolution.

James de Ste. Beuve, one of the most celebrated divines of his age. Having refused to subscribe the censure pronounced by the Sorbonne against the propositions of Arnauld, he was, in 1656, removed from his divinity chair in that institute, and forbidden to preach. In 1670, however, the assembly of the clergy testified its respect for his virtues and his learning by voting him an annual pension of one thousand livres; and, in the dignified retreat to which he soon after withdrew, he continued, during the remainder of his life, to be consulted by bishops, chapters, princes, and magistrates, on almost every subject of difficulty and importance. His "*Decisions*," forming three quarto volumes, were, after his death, collected and published by his surviving brother. They appeared in 1677.

very positive and clear in his resolutions upon it,—which, therefore, I will set down distinctly.

“Quæritur 1°. An quilibet episcopus potest erigere capitulum?”

“Respondetur. Potest.

“Qu. 2°. Unde constat, vel quo jure?”

“R. Quia est episcopus. Est siquidem capitulum episcopi consilium: omnis autem in potestate constitutus potest sibi eligere consilium suum.

“Qu. 3°. An restringitur hæc ex parte episcopus, ex eo quòd fuerit delegatus?”

“R. Oportet inspicere literas delegatorias:”—which being read, he subsumed thence, after this manner:—“Sed omnis episcopus in suâ civitate, vel diœcesi, potest erigere capitulum. Quare, cùm literæ istæ tribuant episcopo Chalcedonensi potestatem faciendi id quod alii episcopi facere possunt, in suis civitatibus, vel diœcesibus, sequitur evidentè, quòd, licèt, per impossibile, ex vi propriæ potestatis hoc facere non potuisset, tamen ex istarum literarum vi id facere potuit.

“Qu. 4°. An capitulum ita erectum est canonicum?”

“R. Capitula sunt antiquiora canonibus. Et tamen, aliquo modo capitulum vestrum est etiàm canonicum. Aiunt siquidè canonibus episcopum posse facere omnia non reservata summo pontifici: sed nusquàm reservatur summo pontifici erectio capitulorum: est itaque capitulum vestrum hoc modo canonicum.

“Qu. 5°. An capitulum sic erectum potest unquam interire?”

“R. Minime Gentium! Nam nihil sanctius apud

“canones, quàm quòd “CAPITULUM NUNQUAM MORITUR.

“Qu. 6°. An expedit petere confirmationem capituli nostri à curiâ Romanâ?

“R. Cautè! Nam si curia Romana semel existimet vos dubitare an capitulum vestrum sit satis validum absque confirmatione, capiet forsàn inde licentiam illud infirmendi, ac, pro libitu, invalidi dandi.”

Other authors of great note I could allege, were not this full and comprehensive resolution of this most learned man *instar omnium*; for which reason, as also for brevity's sake, I omit them.

I shall now subjoin to this some few observations on the truly apostolical and primitive spirit of the venerable dean and chapter, in these deplorable circumstances, wherein they saw all their former industry and hopes prove abortive, and themselves surrounded with those disasters they [hitherto] only feared, and against which they had made so many vigorous and laudable attempts. Yet, for all this, they lost not their wonted zeal for Christ's institution, nor were dismayed under those fatal inconveniences which themselves and it lay under;—though to oppose or protest against [what had been done], when encouraged by so irresistible an authority, was the height of imprudence; since it would bring upon them the menaces and frowns of the temporal and spiritual sovereigns, and possibly endanger a schism or scandal, and, after all, be ineffectual, and meet with no redress. And, therefore, the safest and most commendable method was, to restrain and curb in that active zeal for the present, with the



unerring guards of caution and prudence; and, till a more favourable juncture might afford some fairer promises of success, be content to preserve the chapter in its intrinsic authority, whilst the new intromitted jurisdiction took place and governed. This pious and prudent resolution was put in execution by frequent meetings and general capitular assemblies (viz. in 1687 and 1694), with the knowledge of the bishops, in which they chose their respective members, yea, and even archdeacons; not [so] as to exercise any actual jurisdiction, as from the chapter, but to preserve their titles, and keep up its integrity, and their prerogative (as having been always *ex gremio ecclesiæ*), and its ancient form; and this, too, with and by the consent of the bishops, when they were fully satisfied of, and understood their reasons for doing it.\* They produced likewise their reasons why the chapter ought still to be preserved, or others erected in the respective districts of the present bishops, which, by way of address, were delivered in to their lordships;—the first whereof was [presented] November 16th, 1693. The substance of it is to this purpose:—

“That the dean and capitulars, having seriously “reflected on the past attempts of their adversaries,

\* On the 2nd of December, 1685, shortly after the arrival of the new vicar, the chapter passed a resolution, declaring “that the jurisdiction of the chapter shall be deemed to cease during the exercise of Bishop Leyburne’s authority, unless we perceive such an opposition raised against our authority as shall manifestly tend to its destruction.” (MS. minutes of the Gen. Assembly, July 9, 1694, cited by Berington, *Mem. of Panzani*, 375.) The suspicion conveyed in the latter part of this sentence is sufficiently evident.

“and on the great interests formerly made against  
“them; and now foreseeing that, whenever Provi-  
“dence shall take their present superiors away, most  
“probably they should have those set over them  
“whom their adversaries should recommend as  
“having the power of both courts to favour them,  
“whereby a gate would be opened for all that  
“mischief to enter in, which has been designed for  
“many years; whence, by submitting, they must  
“consent to their own ruin, or else, by standing on  
“the defensive, run the hazard of great disorders, if  
“not of schism:—Wherefore, they beseech their  
“lordships to take these things into their most  
“serious consideration, and make some provision  
“to prevent the evil; and therefore, since the  
“chapter was erected and confirmed by two  
“learned and pious bishops, with the advice  
“of divers prelates and learned doctors, and  
“with this express clause, that it should endure  
“*‘donec pluribus in Angliâ episcopis Catholicis*  
“*‘constitutis, plura in regno erigantur capitula,’*  
“they would either please to erect, in each  
“respective district, chapters to succeed with  
“ordinary jurisdiction, or else conclude on some  
“means whereby may be secured to the present  
“chapter its rights and privileges of ordinary  
“jurisdiction, nomination of successive bishops, &c.,  
“*sede vacante*, as bequeathed to it: for thus it was  
“left, as absolutely necessary for the well-being and  
“preservation of the body; nor can they lay it  
“down without forfeiting that trust reposed in  
“them, being false to their body, and to the oath  
“they have taken for its support, and also injurious

“to the memory and the whole proceedings of those  
“venerable prelates.”—This was subscribed by Dr.  
Perrot, the dean, and nine capitulars.\*

To this address their three lordships gave this  
following answer:—“That, as to the first point, the  
“erecting of chapters, they should be willing to  
“comply were the thing possible to be done: but,  
“according to the present discipline, chapters will  
“not be allowed, without leave and a confirmation  
“from Rome; for, though they did not disown *a*  
“*power of doing it in themselves, as having ordinary*  
“*jurisdiction*, upon which the former bishops  
“grounded themselves, yet, as the practice is, they  
“cannot do it;† and that, whenever done, it will

\* Among the signatures was that of the venerable John  
Gother. The address and its answer are printed from Mr. Be-  
rington’s copy, which was taken from the original minutes. It  
is evidently more correct than that given in the former edition  
of this work.

† Sergeant himself, in one of his MS. papers, after remarking  
strongly on this declaration, and showing that the vicars, what-  
ever might be their authority, could not possess any portion of  
that ordinary jurisdiction which had been held by Dr. Bishop  
and Dr. Smith, thus proceeds:—“As certain as it is that bishops  
can erect chapters in their own cities and dioceses (which all the  
world knows is most certain), so certain it is, if the words of the  
vicars were really meant, that they have power to do the same;  
and yet they must not, or dare not, do it, for fear of disgusting  
those very persons that gave them this power. This is strangely  
mysterious. They have power given them under their hands to  
do this, and all power is essentially ordained for action; and yet  
this power is not to act, and therefore, in effect, is *no power*, but  
is *disabled* from acting,—which it could not be but by a superior  
power. And what power can that be but its opposite power, the  
*extraordinary* power? Wherefore the extraordinary, or *human*,  
is the commanding and overpowering power; and the ordinary,

“not otherwise be effected than by the interposition of the king (James), which at any time would be ungrateful to the apostolic see, and now peculiarly unseasonable for his majesty to propose. —As to the second point, the *present chapter*, they would, according to the authority of all bishops, leave, at their decease, a vicar-general with faculties for extraordinaries for a limited time, during which, if a new bishop were not appointed, then they would not by any act prejudice the chapter, which might proceed as it thought proper.— Finally, that the *nomination* of bishops was in the king (James), of whose goodness they had no reason to doubt, and to whom they might with all freedom make their applications; and that they most assuredly would not prejudice his right.”\*

which is of *divine* institution, is the poor, weak, subservient power, and must not disobey it;—that is, the divine power has no power at all, but what the human will allow it: for the world agrees that the ordinary power is divine, and the extraordinary human.”—*Apud* Berington’s Panzani, 382, 383.

\* This last sentence is omitted in the old edition. Of James’s alleged right to the nomination of bishops, as opposed to that vested in the chapter by the charter of confirmation, it may be sufficient to observe that, in the opinion of Dr. Doyle, “after the Stuarts ceased to be the sovereigns of these countries, if their *recommendations* were attended to, it was a matter of courtesy, rather than of obligation, on the part of the pope; for the right which he recognised in the Stuarts, to present to the sees in Ireland and England, whilst they were Catholics, he must have recognised in them because they were the sovereigns of these countries. Now,” continues the bishop, “when they ceased to be sovereigns, and to have jurisdiction in this country, I think, if he still continued to pay attention to their *recommendations*, it was not in consequence of a right which he recognised to exist in

The second [address] was drawn up during the general assembly in 1694, and delivered to each bishop, according to this tenor:—"That whereas, "in their answer to the address of the last year, the "vicars had declared that, notwithstanding their "ordinary power of erecting chapters, they will not "be allowed, without leave and confirmation from "the see apostolic, and that, therefore, according to "the present discipline and practice, they could not "do it, the assembly, without a deep sense of grief, "cannot but represent to them the ill effects that "must necessarily follow in the respective vacancies "(and how long they may continue no one knows) "they must leave at their deaths. The evils are, "that, without a standing ordinary jurisdiction, this "cannot properly be called a church; that it will "be destitute of all the advantages which such "jurisdiction brings with it; that it will be without "order, exposed to the encroachments of adversaries, and the flowing in of foreigners; that the "laity will be deprived of the sacrament of confirmation, which, in the vacancy of sees, cannot "be administered without faculties from the standing ordinary jurisdiction, &c. For the prevention "of these and other evils, their predecessors instituted a chapter for the continuance of ordinary "episcopal jurisdiction, *sede vacante*, to endure "donec, pluribus in Angliâ episcopis Catholicis "constitutis, plura in regno erigantur capitula;" and "therefore, unless this present chapter be supported, "or others erected, those dangerous mischiefs must "follow, but through a deference to their high, though fallen, state."

—Evidence on the State of Ireland, 403.

“fall on the clergy and laity. It is well known,” they added, “that we were, divers times, forbidden by King Charles II. and his chief ministers ever to accept of a vicar apostolic, as a title and authority understood to be contrary to the ancient laws of this nation, and exposing English subjects to the danger of a *præmunire*, and exclusion from the king’s protection. Moreover, it is well known to you what frequent remonstrances we made to King James II. for preventing the admission of such a title and authority, and what good intentions he expressed for the obtaining an absolute ordinary for us. And finally, it ought also, as we humbly conceive, to be considered, in what danger we still lie from the said laws, having a prince upon the throne not of our religion, and who, we may justly fear, may be easily persuaded to the execution of them.

“This being the state of things, therefore the dean and chapter of the English Catholic clergy, now assembled, do, with all due respect, supplicate the vicars apostolic effectually to solicit the Roman see for the establishment of such a succession of ordinary episcopal jurisdiction, so necessary to this country above all others. Or, if you shall think fit,” they conclude, “to accept of our concurrence also therein, we shall depute such members to attend you from time to time as may be proper for the carrying on and accomplishing so good a work.”—*Signed*, “John Perrot, dean, *in nomine meo, et totius capituli ecclesiæ Anglicanæ simul congregati*. July 13th, 1694.”\*

\* This address is printed from Mr. Berington’s copy, taken,

In answer to which, their lordships replied that the request was most reasonable, and that such a supplication could not be offensive to the see of Rome, and that they would promote it when it should be judged a convenient time.

Reasons were [again?] humbly offered to their lordships, showing the necessity of a standing ordinary jurisdiction in our nation :—The first is, because a dean and chapter, governing, and exercising ordinary episcopal jurisdiction, *sede vacante*, was the ancient ecclesiastical government, in Catholic times, of this our country, established by the sanctions of the Church and the laws of the realm, and out of which they were cast by the Protestant Church, &c. : and therefore, since this English Catholic Church had the honour to be styled “*primogenita ecclesiæ*,” it is to be hoped that his holiness will let it proceed in that ancient and established way of government.

2°. Because the government by dean and chapter, by long custom is become natural to the kingdom, easy, and suitable to its genius; which is evident from hence, that the Protestant Church, established by law, embraces the same hierarchical way of government, by bishops, deans, and chapters. Inso-much, that no other sort of church government, amongst Catholics here, can promise itself any favourable reception, as being contrary to the sanctions and laws of the realm, and intrinsically apt to create fears and jealousies in the Protestant subjects;

like the preceding one, from the original minutes. It was presented to Dr. Leyburne and Dr. Gifford by a deputation, consisting of the dean, Mr. Ward the secretary, and Mr. John Gother.

as though his holiness had some new designs upon England, by abolishing the ancient, and introducing a novel, sort of government:—and what mischiefs might arise from Protestants' fears and jealousies, fomented by our adversaries, [it] is not hard to comprehend; but [it] must prove grievous both to clergy and laity to be exposed to them.

3°. Because this sort of government appears most necessary for the dignity and support of the English secular clergy, without which it will prove the most despicable and contemptible of all ecclesiastical bodies in England: since all regulars here not only pretend, as missionaries, to be of the clergy, and have pastoral jurisdiction, but have also their bodies corporate confirmed by the see apostolic, for their greater strength, encouragement, and emolument; whilst the secular clergy, without a capitular government, could not properly be called a body, but a contemptible number *multorum capitum sine capite*, or *capitulo*.

4°. Because the body of the Catholic secular clergy in England, as to its qualifications and number (*absit jactantia*), is far more considerable than any body, or perhaps bodies, of English regulars in the said kingdom; and what hath experimentally raised and maintained its dignity and credit hath been, the government of the dean and chapter, in above seventy years' possession, from the first institution until the arrival of my lord bishop of Adrumet.\* What an affront, then, would it be to the dignity of the clergy, to leave them now

\* The chapter, no doubt, spoke of the period which elapsed from its foundation, in 1623, to the date of its present address,



*acephali*, without capitular jurisdiction to support their right and order?

5°. Because, if the present general chapter should cease before the erection of other particular chapters, then all contracts, donations, and funds, &c. made and ratified by authentic deeds, under the seal of the present chapter, for the education of students, provisions for pastors, relief for superannuated or other necessitated priests, and other good uses, would run great hazard, in small time, of being lost, there being no corporate body or bodies to look after them. Nay, which is far worse, no more charitable donations can be expected from the piety of any persons whatever, let them be never so devoutly or piously inclined, since no prudent person can be thought willing to make any donation or establishment, where there is no authorized ecclesiastical body able to give security for future performance of incumbent duties.

6°. Because, although the government of apostolic vicars perhaps might [otherwise] do as well in England as in other countries, yet there is this disparity, that such countries either have no laws, rendering the acceptance of any extraordinary jurisdiction highly criminal, or else they never had chapters, or [at least] not of so long continuance, or so universally received, as in these parts; or, at least, the clergy's dignity and rights are there otherwise so well fenced, as [that] there is no fear of their being prejudiced, or church government [being] embroiled;—of which [in England] there has been so not to “the arrival of my lord bishop of Adrumet.” The latter was barely sixty-two years.

costly and scandalous experience, that it is of the highest importance, for peace and unity, that a capitular government should be here upheld.

7°. Because, in supposition of no capitular government, *sede vacante*, these inundations of evils will follow,—who shall then inflict necessary censures?—who shall provide pastors with flocks, and flocks with pastors?—who shall govern the clergy and laity in a canonical way?—who shall give faculties to foreign priests, if they are found fit, or deny them, if they are not?—who shall examine extraordinary faculties, of which there are here frequent abuses?—who shall approve preachers and confessors, or give leave to foreign bishops, when required, to administer the sacrament of confirmation?—and, in a word, who shall supply all those spiritual comforts and advantages which ordinary episcopal jurisdiction brings along with it, and [which] have hitherto been laudably performed\* by the chapter?

They farther humbly entreated their lordships, that they would lay before his holiness the manifold favours and graces which his predecessors, of happy memory, had, *vivâ voce*, shown to the chapter. His holiness Pope Innocent X., expressed to Mr. Fitton, then agent at Rome, that “he would not disapprove of the chapter, but let them alone with their government.” Alexander VII., having promised a bishop, expressly ordered Mr. Plantin, the agent, that they “should govern, in the mean time, by the dean and chapter.” Innocent XI., being moved by Mr. John Caryll (the king’s envoy to the see apostolic for obtaining a bishop) in something

\* *Administered.*

relating to the present chapter, declared that “the chapter was of ancient institution, and he would not have the power of it lessened.”\*

After this, in the year 1697, the chapter proceeded to the choice of several vacant capitular archdeacons, as it had always done.†

Let [then], I say, every true brother or friend of the clergy give his impartial judgment concerning the impregnable foundations on which this chapter was at first erected, afterwards confirmed and established, by its first architects and institutors, now eighty years ago, to this present 1703; [let him consider] how laudably it was governed by the two bishops, its founders; how worthily it presided over and directed this Church, and exercised ordinary episcopal jurisdiction, in the two vacancies of the said bishops, between thirty and forty years; how it ever maintained itself, and the rights of the whole secular clergy, both at home and abroad, against all the attacks of its adversaries; how many wholesome provisions have been made by it for the prosperous government of the Church; how many honourable actions it hath done for the advance of the clergy in piety and learning; and, which is a far greater concern, should the validity of this chapter be called in question, how many sacrilegious and invalid adminis-

\* In these “reasons,” as well as in both the preceding addresses, the reader will not fail to discover sufficient evidence of the design, alluded to in a former note (page 105, *ante*), of effecting the dissolution of the chapter. That it was only suspended, was, perhaps, the effect of these remonstrances.

† Here, in the original edition, follows the memorial, removed to page 99, *ante*.

trations of sacraments, dispensations, probations of faculties, [actions], in a word, [involving] the whole system of ecclesiastical functions, would be by that wild concession admitted necessarily to follow. What Christian ears can with patience hear such fatal paradoxes? What piety admit of such consequences? or, without horror and amazement, reflect on them? If, then, any *falsi fratres*, out of a design to disparage or undervalue [it], or others more infirm, for want of a due knowledge and consideration of its present state, should speak slightly or disrespectfully of it, either in respect of its first foundation, or the little necessity of its continuation, let every true brother, *opponere se murum pro domo Dei*, be zealous for its honour and preservation, justify its lawful pretences and claims, and convince all gainsayers, from the very nature of the remonstrances of the clergy to the see apostolic for ordinaries, from the diplomas and breves which constituted them, from their patents, which erected, established, and confirmed it with plenary jurisdiction and most ample privileges, from the congratulatory letters of nuncios and cardinals, [from] the tacit approbation and consent of the *Propaganda* and court of Rome, from the frequent remonstrances exhibited by it to that see, [from] the reception and audience of all its agents, from the public superscriptions of all its acts and instruments to all persons (twenty-three whereof, besides the patent by which it was erected, are, at this time, in the archives of Rome), from the oral acknowledgment of so many popes, from the confession and acknowledgments even of the regulars themselves, and lastly, by the

long prescription it has enjoyed, which alone is able to validate and confirm it. These manifold, pregnant, and convincing considerations may, I doubt not, both fully satisfy our true brethren, who are intelligent, inform those who were formerly ignorant, and enable the clergy to defend the validity of our chapter, and the necessity of upholding it against all sly underminers and open offenders of its essential rights.

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NOTE.—That from the beginning of the year 1624 to 1685, inclusive, public letters and memorials passed between the court of Rome and our dean and chapter; in all which time the correspondence was so mutual and friendly, all the agents [were] received and admitted to audience with so much facility and kindness, all the letters [were so constantly] subscribed, “*Decanus, meo et capituli Anglicani nomine,*” and these too directed to his holiness, to the congregation of cardinals, to the *Propaganda*, to the ministers of the Holy See, [and] to the secretary of the congregation, [that they] are unanswerable demonstrations that that see could not pretend ignorance of our claim and actual exercise of episcopal ordinary jurisdiction;—of which letters, twenty-three were despatched from the year 1624 to 1640, and [are] reserved in the archives at Rome, as Mr. Holt, our agent, saw and perused [them]; and others after, to the number of fifty, were sent up to the same court; which is a manifest argument of that court’s approbation of the chapter. And we had the same civility returned by public letters from

cardinals, nuncios, and internuncios, superscribed,—  
“*Admodum reverendis dominis, Decano et Canonicis Capituli Anglicani* ;” of which the originals of at least half a score are at present extant in our public records. Add to this the testimonials, *vivâ voce*, of the popes themselves of the authority and antiquity of our chapter. Let all these particulars be well weighed, and then let any impartial eye see where he can find the least cause or reason for a scruple.

This being designedly an abstract, or concise epitome, the reader may well suppose that an infinite number of observations are omitted which the bulk of this little treatise could not contain. Neither was there any room for inferences, or many notations: the reasons themselves are but hinted at; and the reader must be so ingenuous as to view in his own thoughts the many illations, train of consequences, and force and energy contained in them. Not to detain him any longer, I shall desire him to end the reading of it with this auspicious and commendatory testimony, that the consult of cardinals, by a decree, sent a congratulatory letter to Bishop William, *giving him thanks, in that he had reduced the state of the Church of England to the ancient primitive form, by erecting and establishing a chapter to govern by*; the copy of which decree is at this present time in one of our friends' hands, which, though I had not the convenience of perusing, yet I thought it ought not to be pretermitted, it being of such weight, and related by an unquestionable testimony.

## A P P E N D I X.

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(Referred to at page 9. Orig. in Dodd, iii. 117, ed. Tierney.)

*Rationes quare Catholici Anglicani subordinationem aliquam petunt inter sacerdotes Anglicanæ gentis, tam in Angliâ, quàm in Belgio degentes.*

Cum ecclesia Catholica Anglicana in corpus magnum, per Dei gratiam, jam excreverit, atque indies exerescat magis, numerus etiàm sacerdotum, seminariorum multiplicatione, factus sit auctior, humiliter petitur à vestrà sanctitate, ut, ad incommoda vitanda, quæ ex corporis regimine, quod nullam membrorum subordinationem hactenùs agnovit, oriri necesse est, et præcipuè ad schismatum ac divisionum occasiones tollendas, quæ jam alicubi pullulare cœperunt, duo saltem episcopi Anglicanæ nationis constituentur, qui reliquos moderentur ac gubernent; alter in Angliâ, alter verò in Belgio, qui in Angliâ moranti correspondeat ac cooperetur;—idque ob rationes sequentes.

### *De Episcopo in Angliâ.*

Necessitas unius episcopi in Angliâ, pro præsentì rerum Catholicarum statu, magna et multiplex esse videtur,—

1°. Ad roborandum Catholicorum animos in ferendis persecutionibus; episcopi enim arietes gregis esse solebant in persecutionibus antiquis.

2°. Ad sacramentum confirmationis conferendum, quo, ad quadraginta ferè jam annos, caruerunt Catholici Anglicani, ob episcopi inopiam, eùm tamèn ad fortitudinem in pugnâ spirituali obtinendam præcipuè conferre hoc sacramentum noscatur.

3°. Ad chrisma oleumque sacrum conficiendum, cujus maximâ

inopiâ premuntur hodie sacerdotes Anglicani, cùm aliunde importari sine maximis periculis non possit.

4°. Ad sacros ordines quibusdam conferendos, qui, cum alioqui digni sint, exire tamèn regno ad eos suscipiendos non possunt; vel quòd carceribus teneantur, vel justâ aliquâ aliâ causâ impediti. Aliquandò etiàm è seminariis remittuntur scholares aliquot, sanitatis recuperandæ causâ, in Angliam, qui sacerdotio digni sunt, nec tamen ob ætatis defectum ordinari possunt ante missionem.

5°. Ad consilium dandum in rebus dubiis, arduis, ac gravioribus, quæ cùm sæpè incidant, his difficillimis Angliæ temporibus, neque aliquis modò sit in universo clero qui aliis auctoritate præeat, non leve inde damnum rebus communibus accedit.

6°. Ad informationes veras et cum auctoritate, tùm ad vestram sanctitatem ac cardinalem protectorem, tùm ad reliquos principes, de rebus Anglicis mittendas, cujus rei defectu, unusquisque modò scribit quæ affectus vel error suggerit.

7°. Ad tollendas sacerdotum inter se æmulationes, et terminandas lites, quâ unâ re plurimùm paci ac concordie omnium consulatur.

8°. Ad disponendos ac collocandos sacerdotes locis idoneis, iisque movendos cùm erit necesse, aut majoris Dei gloriæ ratio postulabit, quâ etiàm unâ re multùm alleviabuntur patres societatis, tùm onere, tùm invidiâ aliquorum, cùm ipsi haftenùs sacerdotibus omnibus, quantum potuerint, hæc in re prospexerint, non ex officio, sed tantùm ex charitate.

9°. Ad juvandam hunc episcopum petunt Catholici adjungi numerum aliquem præcipuorum sacerdotum, qui per Angliæ provincias degunt, hoc est ad septem vel octo, qui, vel archipresbyterorum, vel archidiaconorum, nomine, episcopo assistant, et à consiliis sint; ita ut vices suas, per provincias, eis, tanquam commissariis, delegare possit. Horum quatuor nominari statim à vestrà sanctitate petunt, reliqui verò ab episcopo ipso jam constituto, cùm, pro regionum varietate, hominumque notitiâ, ipse melius intelliget quanam magis idonei ad hoc munus erunt.

### *De Episcopo Anglo in Belgio.*

Hujus etiam episcopi constituendi par necessitas ac utilitas se offerre videntur.



1°. Quia cum episcopus in Angliâ jurisdictione episcopali uti non possit, in foro exteriori, ob metum persecutorum, hic in Belgio degens illam supplere poterit, evocando ex Angliâ, et puniendo (si opus fuerit) quemcunque ille, qui in Angliâ vivit, castigare non audebit.

2°. Ut informationes ex Angliâ acceptas videat, et pro diversitate eorum hominum, qui ad ipsum scribent, varia conferat, et ea quæ certa sunt, ex assistentium suorum consensu, ad vestram sanctitatem de rebus Anglicis transmittat.

3°. Ut examinet eos sacerdotes, vel scholares, qui, ex superiorum suorum mandato, Angliam sunt ingressuri, iisque facultates impertiat, vel non impertiat, pro meritis, vel demeritis, et judicium suum de ipsis ad episcopum in Angliâ degentem perscribat, ne omnibus liceat pro libitu ingredi, et causæ Catholicorum incommodare, quod modò sæpè fit.

Hic episcopus plurimum juvamenti adferet ad causam Anglicanam promovendam; juvabit etiam ad unionem et concordiam Catholicorum, qui in Belgio vivunt, præsertim si ei sex archiepiscopi adjunguntur, ex præcipuis nationis Anglicanæ sacerdotibus, quemadmodum suprâ de episcopo diximus, qui in Angliâ victurus est.

Si vestræ sanctitati visum fuerit Catholicis Anglicanis has gratias concedere, expediet, primò, ut hi duo episcopi *in partibus* nominentur, et quòd non habeant titulos Anglicanos, tùm ad vitandas æmulationes, tùm etiam ne persecutores magis inde exasperentur: \*—secundò, ut uterque habeat jurisdictionem in universam Angliam, et forsàn ut qui in Belgio victurus est archiepiscopus sit, ob subordinationem:—tertiò, ut fiant secretò, per brevìa apostolica, unius tantùm episcopi ordinatione, ubicumque ille reperiat, sive in Angliâ, Franciâ, Belgio, Scotiâ, vel Hiberniâ; hoc enim necessarium est, ad secretum servandum:—quartò, ut res expediat, si fieri potest, antequàm innotescat, aut hæretici Anglicani aliquid de eâ suspicentur, ne majori diligentia observent portus ad egressum vel ingressum alicujus episcopi.

Endorsed, "*Rationes pro episcopis duobus Anglicanis, 1597.*"

\* Persons appears to have been thus cautious only when the *episcopal authority was to be curtailed.*

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